

Shropshire Council Response

- Planning Reform Working Paper: Speeding Up Build Out
- Technical Consultation on Implementing Measures to Improve Build Out Transparency
- Planning Reform Working Paper: Reforming Site Thresholds
- Reform of Planning Committees: Technical Consultation

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Planning Reform Working Paper: Speeding Up Build Out

Question a. Do you agree with the evidence base and theory we have set out on build out rates?

Shropshire Council Response:

1. Shropshire Council generally support the evidence base and theory set out on built out rates.
2. However, the Council would note that if one of the objectives of increased housebuilding - making properties more affordable - is to be achieved, then further consideration of 'market absorption rates' and how they influence developer practice is required.

Question b. How could we go further to support models of housebuilding which build faster, such as small sites, strategically master-planned and mixed tenure?

Shropshire Council Response:

Small and Medium Sized Sites

1. Shropshire Council recognises small and medium sized sites are often built proportionately faster than larger sites. However, such schemes have a cumulative impact on communities and infrastructure which is often greater than the individual impact of a larger scheme of equivalent scale. This must be recognised in wider proposals, including reform to site size thresholds.

Masterplanning

2. Shropshire Council considers any additional strategic masterplanning proposed to be undertaken by Local Planning Authorities must be 'matched' by appropriate additional resourcing to provide the officer capacity and skills to undertake this work.

Mixed-Tenure

3. To create certainty, Shropshire Council considers requirements for mixed tenure development should be more specific about expected 'mix'. The consultation document references affordable tenures and build to rent, however no specific proposals are provided on resultant 'mix' expectations.
4. There are also other tenures which should be considered when establishing an appropriate mix, including specialist housing for older people and those with disabilities and special needs (particularly pertinent given current and future demographics); and rent to buy, which provides another option to access home ownership.
5. Furthermore, consideration of 'mix' should extend to size and type of dwelling. An appropriate mix of dwelling sizes and types not only ensure a development is best able to meet local needs, but also ensures a scheme appeals to more of the housing market, supporting earliest delivery.
6. In addition, consideration of 'mix' can occur within affordable tenures. Different affordable housing tenures are targeted towards different needs and providers (for instance rental tenures as generally operated by registered landlords, but certain low-cost home ownership tenures go direct to individuals), providing further opportunity to support earliest delivery.

Question c. For mixed tenure, what would you consider to be an appropriate threshold level?

Shropshire Council Response:

1. Mixed tenure development has the potential to both speed-up development and ensure it is more reflective of the needs of local communities.
2. The threshold applied must be responsive to the diverse characteristics of settlements across the Country. As such, Shropshire Council considers a purely numerical threshold is too inflexible.
3. Such an approach also risks the 'artificial' limitation of dwellings on a scheme to avoid whatever threshold is set.
4. Instead, Shropshire Council recommend a more flexible approach:
 - a. All schemes of 500 or more dwellings (with appropriate management of attempts to artificially sub-divide a scheme) should be required to achieve a mixed-tenure development.
 - b. All schemes of less than 100 dwellings (with appropriate management of attempts to artificially sub-divide a scheme) are exempt from specific mixed-tenure requirements, but where appropriate encouraged to integrate mixed tenure.
 - c. Schemes of between 100 and 499 dwellings (with appropriate management of attempts to artificially sub-divide a scheme) should be required to achieve a mixed-tenure development where it constitutes a meaningful proportion (for example 5% or more) of existing dwellings in the settlement.
5. Irrespective of thresholds, this process will likely have a resource implication for Local Planning Authorities. As such, it must be 'matched' by appropriate additional resourcing.

Question d. Do you have any views on how the proposed CPO measures would work best in practice?

Shropshire Council Response:

1. Currently proposals to utilise CPO measures to speed-up housing delivery place all the 'risk' and very little of the 'reward' with the Local Planning Authority. Shropshire Council considers that if the CPO process is to operate effectively and support the speed-up of housing delivery, this needs to be re-considered.
2. It also needs to be recognised that CPO work is a resource intensive process for Local Planning Authorities, often requiring them to source external specialist legal and consultancy advice. Moves to streamline these powers to encourage greater use therefore needs to be 'matched' by appropriate additional resourcing.

Question e. How should MHCLG guide local authorities and developers towards reasonable build out schedules (noting that ultimately this will be negotiated locally)?

Shropshire Council Response:

1. Shropshire Council recommends preparation of a national template for this agreement, to support resultant discussions at a local level. The Council also recommends Government provides 'examples' of national average build rates for different scales/mixes of development, which alongside local intelligence can inform these negotiations.
2. Shropshire Council notes one area of potential 'tension' that needs consideration is Local Authorities need to maintain a five year housing land supply and developers aspirations to maintain flexibility to respond to changing market conditions / market absorption rates. This tension could delay negotiations and have a negative effect on delivery timescales.

Question f. What are the right set of exemptions for external factors that impact build out rates? Should this include economic downturns which reduce sales rates, or does that mean that payments would be too weak to induce the shift toward the partnerships business models we want to see?

Shropshire Council Response:

1. Shropshire Council considers specific exemptions should be limited to specific site abnormalities and weather related factors.
2. Inclusion of other factors such as availability of materials, labour and market conditions would mean this measure has no value, would undermine one of Government's stated objectives for higher levels of housing delivery - making properties more affordable, and would actively undermine Government's intended shift to a partnership business model.
3. However, Shropshire Council does consider Local Authorities should be provided with appropriate flexibility to determine the circumstances within which it takes action, which could be informed by other factors such as market conditions.

Question g. For the Delayed Homes Penalty, do you agree with the intention to use it to incentivise the shift towards higher build out models of housebuilding?

Shropshire Council Response:

1. Shropshire Council supports this model and the specific recognition that whilst Local Authorities have an important role in managing the supply of housing land, it is the development industry that is responsible for delivery.
2. However, this does have the potential to constitute an additional resource burden on Local Authorities and is unlikely to be self-funding. This is, in part, because this is likely to introduce a further area of dispute and, ultimately, litigation. As such, it must be 'matched' by appropriate additional resourcing.

3. Furthermore, Shropshire Council would suggest there may be value in introducing penalties for applicants / their legal representatives in circumstances where they unnecessarily delay the process for the preparation and completion of S106 Legal Agreements. Frequently this process is overly long and onerous as applicants / their legal representatives seek unnecessary amendments and such delays have a direct 'knock-on' effect for the timescales of the development.

Question h. How should the Penalty be calculated? What are the strengths and weaknesses of using a percentage of house price, or reference to local council tax rates? What information would local authorities require?

Shropshire Council Response:

1. Shropshire Council considers reference to "loss of income" from Council Tax presents the wrong message, implying this is the motivation behind granting planning permissions, which in reality are to meet local needs and requirements from Government. Furthermore Council Tax is generally not sufficient to cover the 'costs' of providing Local Government services to these additional properties.
2. On this basis, the Council would suggest this penalty is linked to a percentage of house prices, which could be determined based on the sale of similar properties on the site during the relevant period if available or other benchmarks for equivalent new properties in the area where not.

Question i. Are there wider options you think worth worthy of consideration that could help speed up build out of housing?

Shropshire Council Response:

1. To speed-up housing development and make properties more affordable, Shropshire Council considers further consideration of intervention on market absorption rates is required. Specifically how can you incentivise/require developers to build more houses and achieve the same return.
2. Shropshire Council would also strongly support action to increase the short and longer term supply of skilled labour, through appropriate roll-out and funding of training programmes such as apprenticeships and further education qualifications.
3. The Council would also encourage a review of the materials (raw and processed) and supply chain associated with housing development. It is often these factors which lead to delay of development.
4. Finally, Shropshire Council is aware that infrastructure provision (particularly utilities), is increasingly becoming a key constraint to the timely delivery of new housing and is often beyond the control of Local Authorities and the development industry. This needs immediate consideration and intervention if it is not to become a 'blocker' to aspirations to speed-up housing delivery. It also has implications for the achievement of high-quality development.

Question j. Do you anticipate any environmental impacts from these proposals that the government must consider and the Environmental Principles Policy Statement?

Shropshire Council Response:

1. Shropshire Council understands the provision of infrastructure (particularly utilities) is increasingly becoming a key constraint to the timely delivery of new housing. There is a real risk that without intervention this could undermine the aspiration of speeding-up housing delivery or lead to unacceptable environmental impacts.

Question k. Do you anticipate these proposals giving rise to any impacts on people who share a relevant protected characteristic, as defined by the Equality Act 2010, that the government must consider under the Public Sector Equality Duty?

Shropshire Council Response:

1. Shropshire Council recognises the importance of and is positively working towards meeting the housing needs of all those within our communities, including those with a relevant protected characteristics. The Council is of the general view that proposals within this consultation, particularly if refined in line with this wider response, could support its ability to meet the housing need of our communities.

Technical consultation on implementing measures to improve Build Out transparency

Question 1. Do you agree that the build out reporting measures should apply to developments which involve the building of new dwellings (including mixed use development)?

Shropshire Council Response:

1. Yes, Shropshire Council generally agrees that new reporting measures should be applied consistently to development that results in the new dwellings.
2. However, it may be beneficial to establish a new cloud-based software 'housing build-out bank', to support administration of this process. This could be administered by the Local Planning Authority, but also provide a portal for developers submit information at key stages in the process. This will support Local Planning Authority resourcing and ensure developers have a consistent 'gateway' for the preparation and submission of data at each of the milestones in the process.
3. The Council considers the administration of this process will constitute an additional resource burden on Local Planning Authorities. This would need to be funded either through planning fee income or, alternatively and as the Shropshire Council's preference, the Government should consider introducing a monitoring levy on relevant development.

Question 2. Are there any other types of residential development that the build out measures should apply to? If yes, please give your reasons.

Shropshire Council Response:

1. Yes, Shropshire Council considers that this should be applied to all forms of specialist housing for older people or those with disabilities and special needs (whether self-contained dwellings or part of communal facilities) and student accommodation.
2. Such accommodation meets housing need. Furthermore, this aligns with the approach taken by Government in the annual Housing Flow Reconciliation data return provided by Council's, which directly inform the housing delivery test. It would also provide Councils with greater certainty about the additional service demands that specialist housing can bring.

Question 3. Do you agree with the proposed threshold of 50 dwellings for the build out measures to apply to?

Shropshire Council Response:

1. No. Whilst Shropshire Council supports recognition that this measure represents an additional administrative burden for Local Planning Authorities, it is not supportive of a 50 dwelling or more threshold. This is for a number of reasons, including:
 - a. It could result in the 'artificial' limitation of dwellings on a scheme to avoid the threshold.

- b. It would 'miss' a significant component of development that occurs, particularly in more rural areas. As Government recognises, small and medium sites make important contributions to housing completion rates.
 - c. It would mean other measures, including power to decline to determine applications, would be more challenging to implement as the sample against which judgements are made is only partial. Using power to decline as an example, the proposed threshold could mean developers persistently failing to build out in reasonable timescales are not identified and conversely developer may be unjustly judged only on schemes over the threshold and not all schemes.
 - d. It may create unreasonable expectations amongst the development industry that Local Planning Authorities only need information from larger development sites. However, Local Planning Authorities would still be expected to monitor sites below this threshold for inclusion in the annual Housing Flow Reconciliation data return.
 - e. Whilst the Council appreciates Government's concern this could constitute an additional burden for small and medium developers, this is somewhat offset by the fact much of the required information is often already provided either in support a planning application or as part of annual monitoring processes undertaken by Local Planning Authorities.
 - f. Paragraph 35 of the consultation document states one of the purposes of commencement notices is "*to enrich the data available about planning permissions as it identifies those permissions which will commence.*" This of course only accurate if it applies to all development above the specified threshold.
- 4. As such, the Council would recommend this requirement is applied to *all development that results in the formation of one or more dwelling.*
 - 5. This is comparable to terminology utilised in the administration of the Community Infrastructure Levy (CIL). It is clear it applies to the formation of one or more dwellings irrespective of whether this is through new build, conversion, change of use or as part of a mixed use development.
 - 6. Irrespective of the threshold, Shropshire Council considers the administration of this process constitutes a resource burden on Local Planning Authorities. This should be funded through a monitoring levy on relevant development.

Question 4. Do you think a higher threshold should be set for development progress reports and the power to decline to determine applications? If so what should this threshold be?

Shropshire Council Response:

- 1. No. See the response to question 3.

Question 5. Do you agree that this information should be covered in the build out statements?

Shropshire Council Response:

- 1. Yes.

Question 6. Do you have any further comments on the build out statement?

Shropshire Council Response:

1. Shropshire Council would suggest the proposed 'optional' condition allowing for variation to the build programme requires further consideration. Given that the build programme has informed the decision making process (including consultation responses), it would be inappropriate for a developer to have the option to simply amend it without any agreement.

Question 7. Do you agree that this information should be covered in commencement notices?

Shropshire Council Response:

1. No. Shropshire Council is in general agreement with the proposed scope of commencement notices.
2. However, to allow for circumstances where there are multiple developers on a site it is recommended that the form requires identification of, and contact details for, the party or parties expected to be undertaking any part of the development, where that results in the formation of one or more new dwellings, and where they are responsible for completing the annual development progress and completion notices.
3. The Council also notes that in paragraph 35 of the consultation document, one of the purposes of commencement notices is "*to enrich the data available about planning permissions as it identifies those permissions which will commence.*" This of course is only accurate if it applies to all development that results in the formation of one or more dwelling.

Question 8. Do you agree with setting a 2 month period after the reporting period ends to submit the development progress reports?

Shropshire Council Response:

1. Yes. Shropshire Council considers a two month period appropriately achieves the balance of ensuring a timely return without placing an undue burden on developers.
2. However, the Council would suggest it may be appropriate to allow early returns, in circumstances where a development is completed during a monitoring period – so a developer can discharge their responsibility.

Question 9. Which option for the reporting period for development progress reports do you agree with?

Shropshire Council Response:

1. Shropshire Council strongly considers the reporting period should align with the financial year (1st April – 31st March).

Question 10. We recognise the information in development progress reports may be useful for LPAs to calculate 5 year land supply (5YLS), are there any impacts with the reporting periods proposed and the interaction with 5YLS?

Shropshire Council Response:

1. The financial year reporting period aligns with timescales covered in the Housing Flow Reconciliation data returns provided by Local Planning Authorities and timescales in most Five Year Housing Land Supply Assessments.
2. Utilising an alternative timescale would result in an unnecessary additional burden for both Local Planning Authorities and the development industry – as the data would still be required for this period to inform the above referenced processes.

Question 11. Do you agree with the proposals for how the completion date is specified for the purposes of development progress reports?

Shropshire Council Response:

1. Yes.

Question 12. Do you agree with the proposals about who submits the development progress report?

Shropshire Council Response:

1. Yes.

Question 13. Do you agree with the information it is proposed development progress reports will cover?

Shropshire Council Response:

1. Yes. Shropshire Council supports inclusion of information, where relevant, on why there have been delays to development progress based on the build out statement.

Question 14. Is there any other information you think development progress reports should cover?

Shropshire Council Response:

1. Shropshire Council would suggest inclusion of sections on 'developers operating on the site' and 'changes to developers operating on a site over the monitoring period'. This will ensure transparency regarding which developers are party to the return.

Question 15. Do you have any views on how a joint approach to submitting a commencement notice could be facilitated on sites where multiple developers are involved?

Shropshire Council Response:

1. Shropshire Council would suggest establishment of a new cloud-based software 'housing build-out bank', to allow the information associated with this process to be submitted.
2. The Council also suggests known developers and contact details should be identified on the commencement notice and subsequently updated annually through the development progress report (as outlined in response to question 14).

Question 16. Do you agree with making provisions in the regulations that would enable a joint submission of the development progress report where multiple developers are involved?

Shropshire Council Response:

1. Yes. See response to question 15.

Question 17. Do you agree that this information should be covered in development progress reports where a joint approach is taken?

Shropshire Council Response:

1. Yes.

Question 18. Do you have any views on what information other than in build out statements and development progress reports LPAs should have regard to when considering whether the carrying out of the earlier development has been unreasonably slow?

Shropshire Council Response:

1. No. Shropshire Council considers the information outlined is reasonable.

Question 19. Do you have any comments on the scope of the guidance?

Shropshire Council Response:

1. Shropshire Council appreciates the proposal that this process would be applicable to all development groups under the control of a corporate entity, where one such development group is of concern. However, the Council is also aware that some developers 'close down' and 'start up' new development companies frequently, often for legitimate reasons but in some instances for other purposes. The Council considers the guidance should take account of and guidelines on this circumstance, or risk encouraging this process to occur.

Question 20. Do you have any views on the implications of the proposals in this consultation for you, the environment or the group or business you represent, and on anyone with a relevant protected characteristic? If so, please explain who, which groups, including those with protected characteristics, or which businesses may be impacted and how, or any anticipated environmental impacts. Is there anything that could be done to mitigate any impact identified?

Shropshire Council Response:

1. Shropshire Council recognises the importance of and is positively working towards meeting the housing needs of all those within our communities, including those with a relevant protected characteristics. The Council is of the general view that proposals within this consultation, particularly if refined in line with this wider response, could support its ability to meet the housing need of our communities.

Planning Reform Working Paper: Reforming Site Thresholds

Question 1. Would a medium-sized site threshold help reduce barriers and accelerate delivery for SMEs, if linked to the proposed changes to regulatory requirements set out in the working paper?

Shropshire Council Response:

1. Shropshire Council understands the merits of introducing a new medium-sized site threshold for residential planning applications.
2. However, if introducing the 'category', when determining associated requirements at the planning application stage, it will be important to recognise that development within it constitutes a very significant component of development in rural areas.

Question 2. Should the threshold be 10–49 units, or could other size ranges provide a better balance of simplicity and impact?

Shropshire Council Response:

1. Yes. Shropshire Council considers that 10-49 dwellings or more than 0.5 – less than 1.0ha in size constitute appropriate parameters for this 'category' or residential planning application.

Question 3. Should the medium threshold apply to commercial and other non-residential development and how should mixed uses be reflected?

Shropshire Council Response:

1. Shropshire Council considers there is logic in applying a similar graduated approach to planning applications for non-residential development. The specific criteria to establish the new category would require further consultation.

Question 4. If the medium-sized site threshold were introduced, should the exemption from paying the proposed Building Safety Levy for fewer than 10 dwellings be extended to align with medium-sized development sites?

Shropshire Council Response:

1. No comment.

Question 5. Should there be solely area-based size thresholds (ha) given the different contexts and densities, particularly for very small, small and medium-sized sites? Or would it be more appropriate to also specify a unit size threshold?

Shropshire Council Response:

1. Shropshire Council considers it is clearer and more transparent for developers, communities and decision makers to utilise dual definitions for

each category of development – so for the proposed medium scale residential development category: 10-49 dwellings or more than 0.5 – less than 1.0ha in size constitute appropriate parameters for this 'category' or residential planning application.

Question 6. Are the proposed streamlining options the right ones for government to consider?

Shropshire Council Response:

1. Shropshire Council is supportive of the principle of streamlining requirements for applicants of small and medium scale residential development, subject to ensure that sufficient information remains available to reach informed and robust decisions.
2. With specific regard to proposed 'streamlining' of requirements for residential applications within the proposed new medium scale development category outlined in the consultation document, Shropshire Council:
 - a. Is generally supportive of the principle of simplifying the biodiversity net gain process, provided this does not undermine the achievement of a minimum of 10% biodiversity net gain. However, the Council would oppose any proposal for the removal of the requirement to achieve Biodiversity Net Gain for medium-scale development.
 - b. Has no comment on Building Safety Levy.
 - c. Disagrees with proposed exemptions from the build out transparency requirements, which should be applied to *all development that results in the formation of one or more dwelling*. There are a number of reasons for this position, as identified in the Council's response to the relevant consultation. These include:
 - Risk of artificially limiting scale of development.
 - 'Missing' a significant component of development, particularly in rural areas.
 - Undermining other measures such as the power to decline.
 - Risking creating unreasonable expectations amongst the development industry regarding information required by Local Planning Authorities – for national data returns and housing land supply process, development progress is required annually irrespective of scale of development.
 - d. Is supportive of maintaining the 13-week statutory time period for determination.
 - e. Considers Local Planning Authorities are best placed to establish a scheme of delegation for planning applications, which ensure a balance between efficient and timely consideration of the planning application and maintaining the democratic process.
 - f. Is supportive in principle of proportionate referral to statutory consultees. However, the Council would again advise that when determining what is proportionate, it must be recognised that development within it constitutes a very significant component of development in rural areas.
 - g. As Government has recognised within the consultation document, permission in principle for smaller scale development has had very limited uptake. On this basis, the Council would not support its 'roll-out' to larger scales of development.

- h. Is supportive of the principle of proportionate validation requirements. However, there requirement must be carefully considered to ensure the information required to determine the planning application is available for the outset, in order to avoid unintended consequences of delaying decision making.
- i. Would support the introduction of a national proportionate but robust national template for S106 Legal Agreements, as negotiation with developers seeking unnecessary changes to Local Planning Authority templates is often a source of delay to their completion. However, Shropshire Council would very strongly oppose any proposal for to remove the requirement to provide affordable housing as part of developments of this scale. This would undermine the ability to meet local housing need and likely slow development progress on such sites, given such provision constitutes a further outlet.
- j. In addition, it is important to emphasise that requirements must not be 'streamlined' for other environmental considerations, such as heritage and archaeological impacts, as without sufficient information from the outset such matters can result in significant delay to decision making - this is particularly pertinent in rural areas with high densities of heritage assets.

Question 7. Are there further changes that could and should be linked to new or existing thresholds? Are there wider changes that could be made through national planning policy that would be beneficial?

Shropshire Council Response:

1. Shropshire Council considers that to add further clarity and transparency for developers, communities and decision makers in the operation of policies on affordable housing, Government should specifically define what constitutes Designated Rural Areas.
2. Shropshire Council recommends this definition includes all parishes with a population of 3,000 or fewer and all parishes located in a National Park or National Landscape.
3. Within communities in Designated Rural Areas, Local Planning Authorities should continue to be supported in requiring affordable housing contributions from all sites that result in the formation of one or more new dwellings. Generally this should consist of on-site provision, but in exceptional circumstances it could consist of a commuted sum to support off-site provision.
4. This approach would provide a further outlet on small development sites which could contribute to the speed of delivery. Crucially, it would also improve the supply of rural affordable housing by:
 - a. Increasing affordable housing delivery as planning gain within market development.
 - b. Reducing land values, thereby providing more opportunities for small and medium sized developers.
 - c. Encourage more landowners to consider release of land for rural exception site development, thereby facilitating additional residential development.

5. Shropshire Council would also continue to advocate for the removal of a non-local threshold for affordable housing contributions from market residential development as planning gain. This would achieve the same benefits outlined above for small-scale development in non-Designated Rural Areas.

Question 8. Is the planning application process for small sites more challenging on brownfield land than greenfield land? If so, then what are these challenges or barriers?

Shropshire Council Response:

1. Shropshire Council does not consider that the planning application process for small brownfield sites is generally more challenging than small greenfield sites. However, it is accepted this may be the case for more complex contaminated sites where a barrier that can arise is economic viability, although these do not often arise in Shropshire. For this reason it would be inappropriate to take a 'one size fits all' approach to such development.

Question 9. Are the determination periods detailed in this working paper the correct ones? Would shorter determination periods be appropriate for a particular site size once wider reforms to planning fees have been implemented - including those set out in the Planning and Infrastructure Bill.

Shropshire Council Response:

1. Shropshire Council considers the determination periods detailed for the three 'categories' of residential planning applications are appropriate. Specifically, the Council is supportive of maintaining the 13-week statutory time period for determination of residential planning applications within the proposed medium scale category.

Question 10. What are the specific barriers SMEs face during s.106 agreements and what would be the most effective action for government to take, in line with its manifesto commitments on affordable housing?

Shropshire Council Response:

1. Shropshire Council considers the main factor that delays the completion of S106 Legal Agreements between Local Planning Authorities and SME's is the unnecessary negotiation regarding unnecessary changes to Local Planning Authority S106 Agreement templates.
2. As such, the Council would support the introduction of a national proportionate but robust national template for S106 Legal Agreements, which may remove this delay factor.

Question 11. What are the barriers to developing very small sites as defined above and what parameters could be helpfully addressed in a design code?

Shropshire Council Response:

1. Shropshire Council considers that the existing approach to very small sites is not overly onerous. It achieves an appropriate balance between ensuring development complements and enhances local character whilst facilitating the timely progression of such development.
2. The Council considers any design code for such development would need to ensure development is responsive to and enhances local character, rather than seeking to establish specific design requirements.
3. This is because such sites are generally within areas with an established character and this scale of development is unlikely to be able to create a new character area in and of itself. Furthermore, given the diverse characteristics of Local Planning Authorities and the settlements within them, a more 'generic' design code could not respond to local circumstances and as such would be either counter-productive or largely meaningless.
4. As such the Council suggests such a design code could establish the principles of what constitutes 'good design' on small sites – having regard to local character and should also stipulate the need to ensure the amenity of new and existing properties.

Question 12. What types of rules set out in design codes would be most beneficial in unlocking development?

Shropshire Council Response:

1. See response to Question 11.

Question 13. Are there other issues or opportunities to consider for ensuring the success of these proposals?

Shropshire Council Response:

1. Shropshire Council would support the preparation of a proportionate and robust S106 Agreement template.
2. Shropshire Council also considers that to add further clarity and transparency for developers, communities and decision makers in the operation of policies on affordable housing, Government should specifically define what constitutes Designated Rural Areas.
3. Shropshire Council recommends this definition includes all parishes with a population of 3,000 or fewer and all parishes located in a National Park or National Landscape.
4. Within communities in Designated Rural Areas, Local Planning Authorities should continue to be supported in requiring affordable housing contributions from all sites that result in the formation of one or more new dwellings. Generally this should consist of on-site provision, but in

exceptional circumstances it could consist of a commuted sum to support off-site provision.

5. Finally, Shropshire Council continues to advocate for the removal of a non-local threshold for affordable housing contributions from market residential development as planning gain. This would achieve the same benefits outlined above for small-scale development in non-Designated Rural Areas.

Question 14. Do you anticipate any environmental impacts from these proposals that the government must consider under the Environmental Principles Policy Statement?

Shropshire Council Response:

1. Shropshire Council considers this is dependent on the proposed approach to Biodiversity Net Gain within the proposed medium-scale residential development 'category'.
2. The Council would oppose any proposal for the removal of the requirement to achieve Biodiversity Net Gain for medium-scale residential development, which could have a detrimental environmental impact.

Question 15. Do you have any views on the impacts of the above proposals for you, or the group or business you represent and on anyone with a relevant protected characteristic? If so, please explain who, which groups, including those with protected characteristics, or which businesses may be impacted and how. Is there anything that could be done to mitigate any impact identified?

Shropshire Council Response:

1. Shropshire Council recognises the importance of and is positively working towards meeting the housing needs of all those within our communities, including those with a relevant protected characteristics. The Council is of the general view that proposals within this consultation, particularly if refined in line with this wider response, could support its ability to meet the housing need of our communities.

Additional Question 1. The specific barriers facing SMEs in agreeing s.106 obligations – including availability of willing and suitable Registered Providers:

Shropshire Council Response:

1. Shropshire Council considers the main barriers facing small and medium scale builders in agreeing S106 planning obligations are:
 - a. Unnecessary negotiation by small and medium scale developers representatives regarding unnecessary changes to Local Planning Authority S106 Agreement templates. This could be mitigated through an appropriate national S106 Legal Agreement template.
 - b. The type, size and standard of build quality, of properties. It is a significant investment for Registered Providers to purchase affordable dwellings provided through S106 planning obligations. As such, the

property needs to be of an appropriate type and size to meet need and quality that minimises needs for additional adaptations / investment in the short to medium term. This could be mitigated by ensuring small and medium scale developers liaise earlier (front load negotiations) with Registered Providers to understand needs and expectations.

- c. Unreasonable aspirations on property values of small and medium scale developers. It is not uncommon that aspirations on affordable property values of small and medium developers exceed the valuation of Registered Providers.
- d. The finances / ability to loan capital of Registered Providers. The majority of Registered Providers focus their funds on affordable housing provision through their own developments, with properties secured through S106 planning obligations seen as complementary. Therefore, there are instances where Registered Providers want the property but have insufficient capital to invest at the time they become available. This could be mitigated through further financing / providing greater ability to loan capital of Registered Providers.

Additional Question 2. What role national government should play in improving the process – including the merits of a standardised s.106 template for medium sites

Shropshire Council Response:

1. Shropshire Council considers the main factor that delays the completion of S106 Legal Agreements between Local Planning Authorities and SME's is the unnecessary negotiation regarding unnecessary changes to Local Planning Authority S106 Agreement templates.
2. As such, the Council would support the introduction of a national proportionate but robust national template for S106 Legal Agreements, which may remove this delay factor.

Additional Question 3. How the rules relating to suitable off-site provision and/or appropriate financial payment on sites below the medium site threshold might be reformed to more effectively support affordable housing delivery, where there is sufficient evidence that onsite delivery will not take place within a suitable timeframe and noting the government's views that commuted sums should be a last resort given they push affordable housing delivery timescales into the future.

Shropshire Council Response:

1. Shropshire Council strongly supports the retention of the existing approach – a clear preference for affordable housing obligations to be provided off-site with commuted sums for off-site provision only acceptable where there are exceptional circumstances. This is because this approach achieves integrated communities and ensures provision within the communities receiving the associated development.
2. The Council would urge caution on any changes on this matter, as it could encourage small and medium developers to increasingly expect overly

aspirational values for on-site affordable properties, beyond the valuation of Registered Providers, meaning they cannot secure a sale and there seek to 'convert' provision to a commuted sum for off-site provision.

3. This would have numerous negative impacts, including 'slowing' development, and reducing suitability and inclusivity of development.
4. In the limited circumstances where affordable housing properties provided through a S106 planning obligation genuinely cannot be 'taken-up' by a Registered Provider, there is some merit in supporting commuted sums for off-site provision. However, these sums would need to be sufficient to genuinely achieve such provision and this approach would need to avoid unintended consequences.

Additional Question 4. Would guidance for local planning authorities and developers on calculating commuted sum payments to ensure these reflect the value of onsite delivery be effective?

Shropshire Council Response:

1. Yes. Shropshire Council considers such an approach could reduce unnecessary negotiation and support appropriate standardisation. However, these values must reflect the uplift to the developer and be sufficient to genuinely achieve such provision.

Additional Question 5. Are there safeguards that can be put in place to ensure that local planning authorities do not accrue commuted sums where there is limited evidence of an authority's deliverable pipeline opportunities in relation to affordable housing to ensure that commuted sums can be spent? If so, what would these be?

Shropshire Council Response:

1. In Shropshire Council's experience this is not an issue. Local Planning Authorities generally have a pool of 'opportunities' to invest these funds to secure affordable housing, often in the same or nearest sustainable settlement.

Reform of planning committees: technical consultation

Question 1. Do you agree with the principle of having a two tier structure for the national scheme of delegation?

Shropshire Council Response:

1. Shropshire Council opposes the introduction of a national scheme of delegation. It is considered such an approach is unnecessary and will erode the ability to provide local democratic oversight and accountability of planning decisions.
2. The Council also consider a national scheme of delegation would not allow for sufficient recognition of local context or circumstances and could diminish the role and influence of town and parish councils in the planning process. Furthermore, it could mean particular types of application that could deliver significant benefits to Shropshire residents are removed from committee oversight and as such quality might be eroded.
3. The Council considers Local Planning Authorities are best placed to establish delegation procedures for the determination of planning applications in their administrative area. However, if Government considers greater standardisation is required, the Council would advocate the establishment of 'national parameters' for local schemes of delegation, rather than a national scheme of delegation.

Question 2. Do you agree the following application types should fall within Tier A? (Which would include types of applications which must be delegated to officer in all cases)

Applications for planning permission for householder development, minor commercial development and minor residential development.

Applications for reserved matter approvals.

Applications for non-material amendments to planning permissions.

Applications for the approval of conditions including Schedule 5 mineral planning conditions.

Applications for approval of the BNG Plan.

Applications for approval of prior approval (for permitted development rights).

Applications for lawful development certificates.

Applications for a Certificate of Appropriate Alternative Development.

Shropshire Council Response:

1. Without prejudice to the Council's response to Question 1, Shropshire Council does not agree all these forms of application should fall within 'Tier A'. Specifically the Council strongly considers that planning applications for minor commercial development, minor residential development, and reserved matters should be included within 'Tier B'.
2. Whilst it is entirely appropriate for the majority of such planning applications to be determined via officer delegation, there are instances where such proposals are locally sensitive and as such local democratic oversight is required. This is the approach successfully employed by Shropshire Council within its own local scheme of delegation.

3. To elaborate, the Council considers:
 - a. Inclusion of planning applications for minor commercial development and minor residential development in 'Tier A' fails to recognise the diverse characteristics of Local Planning Authorities and the communities within them – in a small rural settlement 1-9 dwellings can constitute a very significant and sensitive proposal.
 - b. Inclusion of reserved matters applications within 'Tier A' fails to recognise the importance of the review of detailed design considerations. This is contrary to Government commitments on the achievement of high-quality sustainable design.

Question 3. Do you think, further to the working paper on revising development thresholds, we should consider including some applications for medium residential development (10-50 dwellings) within Tier A? If so, what types of application?

Shropshire Council Response:

1. Without prejudice to the Council's response to Question 1, Shropshire Council strongly considers that all planning applications for medium scale residential development should be retained within 'Tier B'.
2. Whilst it may be entirely appropriate for the majority of such planning applications to be determined via officer delegation, there are instances where such proposals are locally sensitive and local democratic oversight is required. Inclusion of medium-scale development within 'Tier B' would facilitate this approach.

Question 4. Are there further types of application which should fall within Tier A?

Shropshire Council Response:

1. Without prejudice to the Council's response to Question 1, Shropshire Council does not consider that there are further types of planning application which should fall within 'Tier A'.

Question 5. Do you think there should be a mechanism to bring a Tier A application to committee in exceptional circumstances? If so, what would those circumstances be and how would the mechanism operate?

Shropshire Council Response:

1. Without prejudice to the Council's response to Questions 1 and 2, Shropshire Council strongly considers that a mechanism should be in place which allows for planning applications which fall within 'Tier A' to be considered by planning committee.
2. Shropshire Council considers such a mechanism could be 'triggered' in circumstances where an objection is received from a statutory consultee, the relevant town/parish council, or the local member. In such circumstances a 'gateway test' comparable to that for 'Tier B' applications should then be employed to determine if the planning application is determined via officer delegation or committee.

Question 6. Do you think the gateway test which requires agreement between the chief planner and the chair of the planning committee is suitable? If not, what other mechanism would you suggest?

Shropshire Council Response:

1. Without prejudice to the Council's response to Question 1, Shropshire Council considers the proposed gateway test for applications within 'Tier B' is reasonable.
2. Such an approach is comparable to that already successfully employed by Shropshire Council within its own local scheme of delegation.

Question 7. Do you agree that the following types of application should fall within Tier B? (Which would include types of applications which must be delegated to officers unless the Chief Planner and Chair of Committee agree it should go to committee based on a gateway test)

- a) Applications for planning permission aside from: Householder applications, Minor commercial applications, Minor residential development applications
- b) notwithstanding a), any application for planning permission where the applicant is the local authority, a councillor or officer
- c) applications for s73 applications to vary conditions/s73B applications to vary permissions

Shropshire Council Response:

1. Without prejudice to the Council's response to Question 1, Shropshire Council considers planning applications for all these forms of development should fall within 'Tier B'.

Question 8. Are there further types of application which should fall within Tier B?

Shropshire Council Response:

1. Without prejudice to the Council's response to Question 1, Shropshire Council strongly considers that planning applications for minor commercial development, minor residential development, and reserved matters proposed to be included within 'Tier A' should instead be included within 'Tier B'.
2. Whilst it is entirely appropriate for the majority of such planning applications to be determined via officer delegation, there are instances where such proposals are locally sensitive and as such local democratic oversight is required. This is the approach successfully employed by Shropshire Council within its own local scheme of delegation.
3. To elaborate, the Council considers:
 - a. Inclusion of planning applications for minor commercial development and minor residential development in 'Tier A' fails to recognise the diverse characteristics of Local Planning Authorities and the

communities within them – in a small rural settlement 1-9 dwellings can constitute a very significant and sensitive proposal.

- b. Inclusion of reserved matters applications within 'Tier A' fails to recognise the importance of the review of detailed design considerations. This is contrary to Government commitments on the achievement of high-quality sustainable design.

Question 9. Do you consider that special control applications should be included in: Tier A or Tier B?

Shropshire Council Response:

1. Without prejudice to the Council's response to Question 1, Shropshire Council strongly considers that special control applications should be included within 'Tier B'.
2. Whilst it is entirely appropriate for many such applications to be determined via officer delegation, it is important to recognise that many such proposals are locally sensitive and/or can have significant implications for individuals and the Local Planning Authority. For this reason democratic oversight can be invaluable.

Question 10. Do you think that all section 106 decisions should follow the treatment of the associated planning applications? For section 106 decisions not linked to a planning application should they be in Tier A or Tier B, or treated in some other way?

Shropshire Council Response:

1. Without prejudice to the Council's response to Question 1, Shropshire Council considers it is logical for all section 106 decisions to follow the treatment of the associated planning application.
2. Where a section 106 decision is not linked to a planning application they should be in 'Tier B'. Whilst it is entirely appropriate for the majority of such decisions to be reached via officer delegation, there are instances where such proposals are locally sensitive and as such local democratic oversight is required.

Question 11. Do you think that enforcement decisions should be in Tier A or Tier B, or treated in some other way?

Shropshire Council Response:

3. Shropshire Council considers that enforcement decisions should be in 'Tier B'. Whilst there are many instances where it is appropriate for such decisions to be reached via officer delegation, it is important to recognise that many such proposals are locally sensitive and/or can have significant implications for individuals and the Local Planning Authority. For this reason democratic oversight can be invaluable.

Question 12. Do you agree that the regulations should set a maximum for planning committees of 11 members?

Shropshire Council Response:

1. Shropshire Council is largely supportive of the proposal to establish a 'maximum' planning committee size. However, there should be specific recognition that dependent on the size and characteristics of a Local Planning Authority, more than one planning committee may be required.
2. The Council also considers a 'maximum' of 11 members is reasonable, in that it allows sufficient members to achieve an informed debate, local democratic oversight, and maintain a 'quorum' for decision making. Indeed, the Council would note that its own planning committees consist of 11 members.

Question 13. If you do not agree, what if any alternative size restrictions should be placed on committees?

Shropshire Council Response:

1. N/A.

Question 14. Do you think the regulations should additionally set a minimum size requirement?

Shropshire Council Response:

1. Shropshire Council considers there may be some merit in establishing a minimum size requirement for planning committees in order to ensure there are sufficient members to achieve an informed debate, local democratic oversight, and maintain a 'quorum' for decision making.

Question 15. Do you agree that certification of planning committee members, and of other relevant decisions makers, should be administered at a national level?

Shropshire Council Response:

1. Shropshire Council is generally supportive of the principle of establishing national expectations for the mandatory training of planning committee members. However, the Council considers a local based approach where the Local Planning Authority provides the training and certification would be preferable.
2. This is because experience demonstrates that officer involvement in the training and accreditation process garners trust and understanding between officers and committee members, which supports the effective operation of the planning committee.
3. This could be facilitated through the provision of 'national parameters' for the scope and content of this training.

Question 16. Do you think we should consider reviewing the thresholds for quality of decision making in the performance regime to ensure the highest standards of decision making are maintained?

Shropshire Council Response:

1. Shropshire Council is a high-performing Local Planning Authority. The strong view of the Council is that the existing performance regime ensures the maintenance of the highest standards of decision making.
2. The Council considers amendments to this regime would lead to unnecessary complexity of monitoring, confusion of expectations amongst communities and applicants, have the potential to undermine the quality of development, and potentially have a negative effect on timescales.

Question 17. For quality of decision making the current threshold is 10% for major and non-major applications. We are proposing that in the future the threshold could be lowered to 5% for both. Do you agree?

Shropshire Council Response:

1. No. See the response to Question 16 above.

Question 18. Do you have any views on the implications of the proposals in this consultation for you, or the group or business you represent, and on anyone with a relevant protected characteristic? If so, please explain who, which groups, including those with protected characteristics, or which businesses may be impacted and how.

Shropshire Council Response:

1. Shropshire Council opposes the introduction of a national scheme of delegation. It is considered such an approach is unnecessary and will erode the ability to provide local democratic oversight and accountability of planning decisions.
2. The Council also consider a national scheme of delegation would not allow for sufficient recognition of local context or circumstances and could diminish the role and influence of town and parish councils in the planning process. Furthermore, it could mean particular types of application that could deliver significant benefits to Shropshire residents are removed from committee oversight and as such quality might be eroded.

Question 19. Is there anything that could be done to mitigate any impact identified?

Shropshire Council Response:

1. Shropshire Council considers Local Planning Authorities are best placed to establish delegation procedures for the determination of planning applications in their administrative area.
2. However, if Government considers greater standardisation is required, the Council would advocate the establishment of 'national parameters' for local schemes of delegation, rather than a national scheme of delegation.

Question 20. Do you have any views on the implications of these proposals for the considerations of the 5 environmental principles identified in the Environment Act 2021?

Shropshire Council Response:

1. No comment.