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Dominic Raab MP
Minister of State for Housing
Ministry of Housing, Communities and Local Government
2 Marsham Street
London SW1P 4DF

Sent via email to developercontributionsconsultation@communities.gsi.gov.uk

9 May 2018

Dear Mr Raab

**South East England Councils response to consultation:
Supporting housing delivery through developer contributions**

1. Introduction and Summary

- 1.1 We respond on behalf of South East England Councils (SEEC). SEEC is the cross-tier voice of local authorities in the South East, representing 9.1 million residents. We are a voluntary membership body, bringing together county, unitary and district councils to promote the views and interests of all tiers of local government across the South East, an area comprising 74 local authorities.
- 1.2 We welcome the opportunity to comment on the Government's 'Supporting housing delivery through developer contributions' consultation. Developer contributions play an important part in helping meet some of the infrastructure needs of new development, though it is important to recognise they alone are not sufficient to fund all the infrastructure funding needs in the South East.
- 1.3 The Government has confirmed its aim to substantially increase home building to 300,000 a year nationally (up from 217,000 in 2016-17). South East councils recognise the need for housing and have demonstrated their commitment, enabling over 99,700 homes in the 3 years to March 2017 – the UK's highest delivery rate. However, our member councils face challenges in continuing to increase housing delivery, including a South East infrastructure funding gap estimated at £15.4bn by 2030. Action is needed to address this and help deliver the transport, utilities/broadband, affordable homes and community facilities such as schools and NHS services needed to support sustainable communities and economies.
- 1.4 **SEEC's response, below, focuses on 4 key issues. Individual member councils will also respond reflecting their local experience and views.**
 - **Small sites and office to residential conversions** – to ensure all development contributes to infrastructure needs.
 - **Viability** – to ensure a transparent approach which captures the true value of contributions that developments can make towards infrastructure.
 - **Other sources of funding** – to help fill the South East infrastructure funding gap.
 - **Councils building homes themselves** – to ensure finance and support for councils building to increase delivery.
- 1.5 We are also making a separate response to your draft National Planning Policy Framework (NPPF) consultation and associated Planning Policy Guidance (PPG).

Detailed comments - Key issues that need further action by Government

2. Context: The need for increased South East infrastructure investment

- 2.1 SEEC members are clear that the Government's focus on delivering homes must not be at the cost of creating sustainable communities and economies. Achieving sustainability requires greater infrastructure investment. South East voters will not thank us if new homes

are built without good infrastructure, for example transport, utilities/broadband and community facilities, as well as affordable housing. Without increased infrastructure investment, the South East economy will be disadvantaged and fail to achieve its full potential – and much needed homes will not be built as sites will not be adequately accessible/connected to other places or serviced.

2.2 Work for SEEC by local government finance experts LG Futures has shown that **the South East is expected to have an infrastructure funding gap of £15.4bn by 2030**. Taking account of expected population growth, providing transport, education, health, community and green space infrastructure for South East residents, plus flood protection, utilities and emergency services, the total infrastructure cost to 2030 is calculated at £38.3bn. Identified funding streams are expected to cover around £22.9bn of this, leaving a gap of £15.4bn.

2.3 SEEC has asked Government for more action to address the growing South East infrastructure funding gap. Housing Infrastructure Fund (HIF, £224m so far across the South East) and proposals in this and associated NPPF consultations to improve CIL/Section 106 agreements and address viability issues could assist if they lead to increased local infrastructure funding. However, they will not be enough to address the £15.4bn (by 2030) South East infrastructure funding gap. More powers/funding flexibility for councils would help them play a greater part in funding local infrastructure needs and build more homes themselves. **We set out further action needed from Government on 4 key issues below.**

3. Small sites and office to residential conversions:

3.1 The draft revised NPPF increases focus on small sites but it can be hard for councils to secure developer contributions on such sites - and it is unclear whether a collection of small sites will attract central infrastructure funding (such as HIF). In addition, permitted development rights for conversion to residential uses have the effect of increasing pressure on existing infrastructure while providing no developer contributions to address the needs arising from the development. In the case of office to residential conversions this can also have a negative impact for local economies as the former employees will no longer be supporting local businesses, local residents (including those occupying the new homes) will have fewer local employment opportunities and have to commute further afield for work. Local authorities will also lose business rates income, reducing their funding further.

3.2 We understand Government wants to encourage small builders by reducing their costs, but residents have high expectations of infrastructure, so we want to work with Government to find new ways of funding these needs. Options we want Government to consider include:

- The consultation's proposal to remove restrictions on pooling 5 or more individual s106 contributions for some councils is a step in the right direction, but this flexibility to combine several contributions to meet infrastructure needs should be extended to all councils. At present the proposal is unnecessarily limited to those who have the separate CIL charging system in place.
- To ensure developments of all sizes make a contribution to funding infrastructure, we ask you to rethink the existing Ministerial Statement (made by your predecessor) which Government proposes to include in NPPF. This excludes sites of 10 units or less from making infrastructure contributions through s106 agreements. This change would help ensure all new developments can contribute to infrastructure and affordable housing (which is excluded from CIL), helping South East authorities respond to local demands.
- Allow South East authorities to group together collections of small sites that could then qualify for funding from national funding sources, such as the HIF.

4. Viability:

4.1 Tackling viability issues is particularly important in the South East given generally high land values, and concerns about the imprecise current adopted NPPF guidance that viability assessment should take account of "competitive returns to a willing landowner and willing developer to enable the development to be deliverable" (current NPPF para.173). In the South East, some developers have argued that their benchmark land value overrides any considerations related to policy compliance; and whilst current viability tests by the Valuation Office Agency ignore the price paid for the land, developers are still over-paying for plots. These factors reduce much-needed funding for affordable housing and infrastructure in the South East.

4.2 The Government's draft revised NPPF and PPG proposals aim to improve the viability assessment process to increase certainty and transparency and address concerns that it delivers fewer contributions for infrastructure and affordable homes than required by local plans. These principles are welcome, but SEEC makes the following additional implementation recommendations to Government:

- Proposals to firmly embed 'viability testing' into the local plan itself are welcome if this brings certainty of securing necessary infrastructure funding. However further information is needed about how this will work in practice, to ensure it does not effectively double the potential for challenges from developers both at the plan-making and application stage. With 5 yearly reviews of local plans it will also be important to avoid making viability vulnerable to challenge within that review process.
- Government must ensure developers adhere to the new 'open book' proposals for viability testing, which will bring more transparency to the process. This will also allow effective oversight of the Government's proposed 'Existing Use Value' approach to land valuation, to ensure any overpaid land values do not reduce much-needed developer contributions for infrastructure.
- Alongside proposed planning reforms, there is need for greater Government guidance for the Valuation Office Agency (VOA) to deliver more consistent reliable assessments of viability, as several member councils report loss of confidence in VOA outputs.

5. Other sources of funding:

5.1 As highlighted above, the Housing Infrastructure Fund (HIF, £224m so far across the South East) and proposals in this and related consultations to improve CIL/Section 106 agreements and address viability issues could assist if they lead to increased local infrastructure funding. However, they will still not be enough to address the £15.4bn (by 2030) South East infrastructure funding gap.

5.2 More powers/funding flexibility for councils would help them play a greater part in funding local infrastructure needs. SEEC asks Government to work with councils to take forward proposals including:

- Exploring the potential for funding infrastructure through 'planning gain', ensuring more of the uplift/gain in land value from granting planning permission is put back into infrastructure to support growth and serve communities and businesses.
- The Government's proposal for rolling out a Strategic Infrastructure Tariff should be made available to all areas, not just those with a Combined Authority/directly elected Mayor. In an area like the South East with no Combined Authorities/directly elected Mayors, this would allow all areas the opportunity to benefit from this approach.
- Giving South East councils access to a share of Stamp Duty the first time a home is sold, to help fund the infrastructure needed for new developments.
- Ensuring there are ongoing opportunities for the South East to access further HIF funding, and introduce longer timeframes to allow for the larger projects that can unlock strategic growth sites to be brought forward.

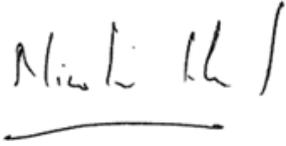
6. Councils building homes themselves:

6.1 SEEC was pleased that the Housing White Paper recognised the role councils could play in increasing the supply of much-needed affordable housing, and urges Government to put in place three key actions to further support this:

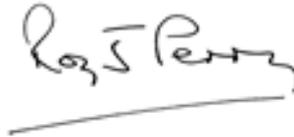
- Relaxing the cap on borrowing under Housing Revenue Account (HRA) rules for all councils would allow councils to build more affordable homes themselves. Recent Government proposals allowing councils to bid for this opportunity are a move in the right direction, but borrowing flexibility should be made available to all councils as a matter of course to release their own housebuilding capacity.
- Reviewing Right to Buy (RtB) to enable local authorities to sustain stocks of affordable homes by ensuring funding retained by councils is adequate to deliver 1 for 1 replacements. While supporting RtB, some SEEC members argue it kicks in too soon and that the discounts are too high to adequately fund replacements.
- Active Government encouragement for councils building homes through new models such as local housing companies and joint ventures to deliver affordable housing, as well as elderly persons extra-care housing and key workers housing. We want an open dialogue with Government to inform how it can support and encourage these types of delivery vehicles.

We look forward to continued engagement with you on these important issues.

Yours sincerely

Handwritten signature of Nicolas Heslop in black ink, consisting of a stylized 'N' followed by 'Heslop'.

Cllr Nicolas Heslop
Chairman, South East England Councils
Leader, Tonbridge & Malling Borough Council

Handwritten signature of Roy Perry in black ink, consisting of a stylized 'R' followed by 'Perry'.

Cllr Roy Perry
Deputy Chairman, South East England Councils
Leader, Hampshire County Council