

Written evidence submitted by the Bartlett School of Planning, University College London [FPS 097]

Introduction

This document is the response from nineteen academics based at the Bartlett School of Planning, University College London (UCL) to the Housing, Communities and Local Government Committee's call for evidence in relation to the future of the planning system in England. The Bartlett School of Planning is one of the world's leading centres for planning education and research. As a group, we have responded to the recent government consultation on their white paper and attach our detailed response as an appendix here, as there is a great deal of relevant information in that document to the issues the committee are interested in. This response draws on the research and understanding of scholars with considerable relevant expertise across planning, urban design and real estate. Below we offer some more concise thoughts on the specific issues the committee raises.

1. Is the current planning system working as it should do? What changes might need to be made? Are the Government's proposals the right approach?

The planning system is not currently working as well as it should. There is a lack of necessary strategic planning and serious attempts to use planning to tackle regional inequality; sustainability is not taken seriously enough, particularly in relation to climate change; the system doesn't embrace modern technology sufficiently, nor handle data (including geographical data) well enough; and design quality is often woefully inadequate.

It is important to note, however, that much of this is linked to the way that the planning system in England has been trying to operate against a backdrop of severely constrained resources under austerity. Changes to the scope and scale of planning activity have been implemented at times without any apparent coherence, but against a backdrop of ever increasing cuts in the funding of local government. The National Audit Office have highlighted that there was a 37.9% fall in net expenditure on planning functions by local authorities, yet the *Planning for the Future White Paper* fails to acknowledge this important resourcing context of recent years.¹ Some of the issues with the performance of the planning system flow directly from this context rather than issues with the foundational approach to planning taken in England.

There is potential around some of the government's proposals on better use of digital tools in planning (so long as this is not to the exclusion of those less able to engage digitally), to ensure a senior officer for placemaking in local authorities and to ensure a greater focus on design outcomes and the potential for design codes in the system.

There are, however, concerns around most of the proposals the government is making. We have provided a detailed response to the government's consultation and make this available here as Appendix A, so do not repeat the response in detail. We are, however, particularly concerned around the central premise from the government that we must move away from a discretionary approach to planning and for the democratic opportunities in planning to be reduced.

There are a variety of planning systems around the world, and these have various advantages and disadvantages. A discretionary system has benefits such as allowing flexibility for innovative site-specific schemes and the government seems to ignore these in their proposals. An as-of-right, zoning system can be made to work and there are examples of such systems

¹ NAO (2019). Planning for new homes, <https://www.nao.org.uk/wp-content/uploads/2019/02/Planning-for-new-homes.pdf>

working effectively in other countries; however this is often linked to having sufficient resources to make the system proactive and effective. It is also vitally important that there are sufficient rules and regulations to safeguard minimum standards under such an approach. The example of permitted development for change of use from commercial to residential in England gives an example of what a more automatic permissioning system could give us and it is deeply problematic.² New unintended consequences have come to light with each iteration of the permitted development regulations and prior approval procedures and there is reason to doubt capacity in central government to implement sufficient safeguards. Without an informed decision on each case, backed-up by proper assessment procedures and the power given to determine the principle of development, the system could be too weak in the face of very poor development proposals. People could be denied as much of a chance to have a say over changes to the environments in which they live. This is deeply concerning; particularly when there seems such poor evidence for the central premise of the white paper, namely that radical *planning* reform is needed to resolve the housing crisis.

There are also considerable risks from disruption related to implementing planning reform. As well as the pressures of austerity, the planning system in England has been the subject of almost constant reform over the last decade, much of it incoherently implemented and in some cases responsible for some of the issues that the white paper now highlights as problematic. In general, government often under-resources the implementation of planning reform, and issues around skills and guidance can cause difficulties. The government's proposals to fundamentally alter the planning system in England risks years of delay to the delivery of local plans and potentially some developments.³

2. In seeking to build 300,000 homes a year, is the greatest obstacle the planning system or the subsequent build-out of properties with permission?

The question itself presents somewhat of a false dichotomy, given there are so many factors involved in our multi-faceted housing crisis.⁴ In some senses, there is a need for greater sophistication and unpacking this headline figure of 300,000 homes a year, for example considering the geographical differentiation and the nature of demand for more affordable – particularly social – housing as opposed to just treating the headline figure as a national target for market homes. There is also a need to consider the way that treating housing as an investment asset is fuelling demand in the UK in a way not seen in some other countries, whatever their planning systems.⁵ Without action looking at issues such as landownership patterns, the role of the state in building housing directly (particularly social housing) or the nature of housing as an investment vehicle, we do not believe that the 'housing crisis' in England will be resolved by planning reform since these issues are not linked to our current

² Clifford, B., Ferm., J., Livingstone, N., Canelas, P. (2018). Assessing the Impacts of Extending Permitted Development Rights to Office-to-Residential Change of Use in England, <https://www.rics.org/globalassets/rics-website/media/knowledge/research/research-reports/assessing-the-impacts-of-extending-permitted-development-rights-to-office-to-residential-change-of-use-in-england-rics.pdf>

Clifford, B., Canelas, P., Ferm, J., Livingstone, N., Lord, A. and Dunning, R. (2020) Research into the quality standard of homes delivered through change of use permitted development rights, https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/902220/Research_report_quality_PDR_homes.pdf

³ Clifford, B. (2013). Reform on the frontline: reflections on implementing spatial planning in England, 2004–2008. *Planning Practice & Research*. 28(4): 361-383. <https://doi.org/10.1080/02697459.2012.725550>

⁴ Gallent, N. (2019). *Whose Housing Crisis? Assets and homes in a changing economy*. Bristol: Policy Press.

⁵ Ryan-Collins, J., Lloyd, T. and MacFarlane, L. (2017) *Rethinking the economics of land and housing*, London: Zed Books.

approach to planning. Housing crises have been seen in some countries with zoning systems of planning and are not uniquely linked to our discretionary system of planning.⁶

Having noted these issues with the headline target, it is clear that by regulating land supply, planning does slow down some developments, but it does so with the aim of achieving a range of differing objectives, such as protecting important environmental habitats, promoting sustainability by reducing harmful low-density sprawl and allowing the possibility of better outcomes through democratic community engagement. There are benefits from this which are important to consider against the constraints it places on housing supply (and there is little evidence that planning constraints are a key driver of high housing prices in England compared to other factors). Furthermore, the system has been allowing an increasing number of planning consents to be issued over recent years, more so than the number of homes being built, as evidenced by the number of unimplemented planning consents.⁷ This has to be linked to build out rate of the private housing developers on which the country is so dependent, who unsurprisingly would seek to maintain profits, and to the lack of involvement of local authorities in direct delivery of housing compared to pre-1980. Given the distribution of income in England today, it seems inconceivable that any amount of private market development would meet all our housing needs. We need to move on from naively seeing planning regulation as the thing that needs changing to somehow resolve the housing crisis.

3. How can the planning system ensure that buildings are beautiful and fit for purpose?

The planning system does not currently do enough to ensure development is attractive and sustainable.⁸ What appears to be essential is ensuring sufficient focus, design capacity, leadership and proper resourcing. The system then needs to allow for a combination of local plans, design codes and design review processes, as we understand the Place Alliance have elaborated in a separate response to the committee's call for evidence. It requires careful upfront planning and design for each site, before developers gain consent, and well-skilled and resourcing local authority planning teams. It is also important that the argument around design moves beyond aesthetic concerns about 'beauty', for example whether a building's exterior appearance matches the vernacular, to think about design in terms of how well places function (for example in relation to the public realm and sustainability) and in terms of making homes which are fit for people to actually inhabit. We believe it is important that there are enforceable good minimum standards in the planning system which are actually upheld, such as those recently suggested by the Town and Country Planning Association under their 'Healthy Homes' campaign.⁹ We would also note that better design standards could be achieved using the current planning system and are not dependent on radical planning reform but instead of making better use of opportunities within the existing system to promote and uphold good quality.

4. What approach should be used to determine the housing need and requirement of a local authority?

A nationally standard method for determining housing need has potential benefits, however it must ensure that it can take account of local housing affordability. This would positively contribute to the paramount objective of tackling the present affordability crisis and would also ensure that price signals are explicitly taken into account when setting housing targets for

⁶ Ryan-Collins, J. (2018) *Why can't you afford a home?* MA: Polity.

⁷ LGA (2020). Housing backlog – more than a million homes with planning permission not yet built, <https://www.local.gov.uk/housing-backlog-more-million-homes-planning-permission-not-yet-built>

⁸ Place Alliance et al (2020a) A Housing Design Audit for England. <http://placealliance.org.uk/research/national-housing-audit/>

⁹ <https://www.tcpa.org.uk/healthy-homes-act>

market-sector output. Target requirements should, however, be able to differentiate between the need for particular types and tenures of housing. The current approach in planning is often disjointed from local housing strategies, homelessness reduction work etc. and housing allocations are often assumed to be just for market housing when there is a need to plan for more diverse housing needs and find sites for this range of tenures.¹⁰ There should also be national (or preferably regional) oversight to ensure that the settlement patterns which result, and their relationship to infrastructure, meet the needs of a country battling to limit / adapt to climate change

5. What is the best approach to ensure public engagement in the planning system? What role should modern technology and data play in this?

There is reason to be concerned about removing the ability for public engagement on individual proposals within the system. It is inevitable people are often more motivated to give up their time to engage on individual schemes where they can see a direct impact upon them than on plans which may influence development in years to come.¹¹ People also move about and may not have engaged in plan-making for an area they don't yet live. The opportunity to be involved in both the plan and permission stages is essential for public engagement in a democratic system managing change in the built and natural environment. Community confidence will also be boosted by not seeing standards undermined by planning failing to uphold policies. This could be supported through better use of design-codes and having clearly stated requirements like the Healthy Homes principles. The loss of requirements like those in relation to the Code for Sustainable Homes as part of a deregulatory drive over the last year has done much to dent confidence in the planning system, as well as the undermining of the ability to secure planning contributions through the viability requirements introduced through the NPPF and the weakened ability of local authorities to rigorously contest these.

Better public engagement in the system could also be driven by further support for neighbourhood planning. This needs to have a clear role under any planning reforms, better funding for plan-making and implementation and ensuring that digital tools and data are available to help communities make proposals for their neighbourhood, ensuring accessibility to communities with adequate training.

6. How can the planning system ensure adequate and reasonable protection for areas and buildings of environmental, historical, and architectural importance?

The system needs to have clear designations to protect areas and buildings, and to have these then informing case-by-case decision-making on development proposals so that schemes are considered holistically and in relation to their context. It is hard to see how well a listed building could be protected in relation to development proposals for immediately adjoining buildings in a 'growth' or 'renewal' area under the government's proposals. There is also a need to be able to consider in aggregate the effects that arise from multiple projects in an area and multiple impacts from different projects. Without consideration of the aggregate impacts of development across the country, the contribution to sustainable development will be severely impaired.

7. What changes, if any, are needed to the green belt?

¹⁰ Morphet, J. and Clifford, B. (2019). Local authority direct delivery of housing: Continuation research. <https://www.rtpi.org.uk/media/2043/local-authority-direct-delivery-of-housing-ii-continuation-research-full-report.pdf>

¹¹ Rydin, Y., and Pennington, M. (2000). Public participation and local environmental planning: the collective action problem and the potential of social capital. *Local Environment*, 5(2), 153-169. <https://doi.org/10.1080/13549830050009328>

The government's proposals fail to adequately address debate around the green belt, potentially for political reasons. There are sound arguments for trying to contain urban areas, given that the sprawling low-density suburbia which would likely result without any constraint is bad for health, leading to higher obesity, car-dependence and so poor outcomes for sustainability and climate change.¹² However, these objectives could still be achieved, and indeed much green belt land still protected, if there was a greater willingness to review boundaries and allow some development in more sustainable locations, such as around existing public transport infrastructure.¹³

Without abolishing the green belt, it is right that green belt policy should be kept under review. The need for review was noted in the 2006 Barker Review of Land Use Planning. Local authorities were subsequently instructed to examine the function of green belt under their jurisdiction: how it was performing against statutory duty. There is a continuing need for local and strategic reviews, to ensure that the benefits of maintaining the designation outweigh costs. Many authorities have undertaken reviews in recent years, but sometimes in isolation and not always with neighbouring authorities. It is important to think strategically about the function of green belt. It might be useful, therefore, to issue guidance on the conduct of reviews. Different methodologies are used, depending on whether an authority is inclined to delete and compensate or whether it is merely seeking to demonstrate that land from the green belt should not, in any circumstances, be 'lost' to development. Some sort of standard method, which includes ground surveys, to test the continuing openness of green belt land and also considers issues of access and recreational opportunity, could be useful. Reviews might also contribute to broader thinking on alternative containment models that are more permeable and promote development that exemplifies high standards in sustainability.

8. What progress has been made since the Committee's 2018 report on capturing land value and how might the proposals improve outcomes? What further steps might also be needed?

In the report prepared by the Select Committee on Land Value Capture, published in 2018, the key conclusion and recommendation from the report was as follows:

There is scope for central and local government to claim a greater proportion of land value increases through reforms to existing taxes and charges, improvements to compulsory purchase powers, or through new mechanisms of land value capture.¹⁴

The Committee came to this conclusion after much deliberation on the evidence submitted to it. In order to achieve this outcome, the Committee recommended that decisions on Compulsory Purchase Orders (CPOs) should be taken locally, that the 1961 Land Compensation Act should be reformed, there should be reform of the CIL regime and that the government should give consideration of the introduction of a Local Infrastructure tariff. Our responses to each of these questions are:

1. What progress has been made on capturing land value since 2018?

Since 2018, it is difficult to find any progress that has been made by Government to improve the capture of land value. In its review of the NPPF (2019) and the Housing White Paper (2018), the Government had opportunities to make commitments or to implement some measures that

¹² Sarkar, C., Webster, C. and Gallacher, J. (2017). Association between adiposity outcomes and residential density, [https://www.thelancet.com/journals/lanplh/article/PIIS2542-5196\(17\)30119-5/fulltext](https://www.thelancet.com/journals/lanplh/article/PIIS2542-5196(17)30119-5/fulltext)
OECD (2018). Rethinking Urban Sprawl: Moving Towards Sustainable Cities
<https://www.oecd.org/environment/tools-evaluation/Policy-Highlights-Rethinking-Urban-Sprawl.pdf>

¹³ Mace, A., Gordon, I., Scanlon, K., and Blanc, F. (2016) A 21st Century Metropolitan Green Belt. Report. <https://www.lse.ac.uk/geography-and-environment/research/green-belt/documents/Final-report-green-belt-1.pdf>

¹⁴ HCLG (2018). Land value capture, <https://publications.parliament.uk/pa/cm201719/cmselect/cmcomloc/766/76602.htm>

would have supported some land value capture but neither of these have been taken. The recent Planning White Paper is the first indication that the Government is considering any reforms in this area.

2. How might the Government's proposals improve these outcomes?

The Planning White Paper proposes the abolition of s106 contributions to mitigate development and the reform of CIL to create an Infrastructure Levy which it intends to use to generate more income than the current methods of CIL and S106 combined. These proposals have a number of unknown outcomes and potential unintended consequences and risks:

- *Uncertainty* – the lack of detail about the proposed scheme will lead developers and owners to focus on those sites where the system is more similar to the one that they know and will probably lead to a prioritisation on housing that can be provided through changes in the Use Classes Order recently adopted by the Government;
- *Delay* – while there has been much focus on the delays associated with negotiation s106 agreements in the current system, the Letwin review (2018) did not find that this was undue.¹⁵ What is less discussed is that much of the delay in finalising s106 agreements can be from the applicant or promoter particularly where the value of the land or planning consent has consequences for end of year accounts and declaration of profits. While the planning system is blamed, the timing used in these negotiations is often manipulated to benefit the promoter;
- *Unwillingness to develop* – if the Government intends that the developer should pay more contributions through an infrastructure levy, developers and landowners may be unwilling to progress their schemes. Research by Letwin (2018) and Morphet and Clifford (2017, 2019) has shown that developers already use delay in build out rates to suit to their financial situation and a proposed increase in Infrastructure Levy is likely to lead to similar delays. Given that land is monopolistic, then developers and landowners can hold on to land and retain its value as part of their asset base. While the cost of holding land may be considerable, developers may regard a hold back position as preferable to paying additional contributions. In this way, they may hope the pressurise the government into changing the new Infrastructure Levy system to one more preferable to them. All of this is in the knowledge that developer profits have risen since 2008 without additional levels of contribution being made (NAO 2019)¹⁶;
- *Negotiation* – development is provided in this country through a negotiated system, unlike other countries. In this case, the developer or scheme promoter has a strong vested interest in the negotiation process to reduce their contributions to the least possible to secure consent for the scheme. This is rational behaviour on their part. At the same time, local authorities have a strong interest in ensuring that development contributions are made but their primary skills are not in these types of negotiation. In research undertaken by Morphet and Clifford (2017 and 2019), it was found that local authorities were starting to use supplementary methods to achieve better returns in viability negotiations. These include:
 - The persistent use of clawback provisions in s106 agreements that require balancing payments when the final value of the development is known through sales;
 - The employment of private sector development surveyors to negotiate these viability assessments and contributions. While local authorities have employed specialist consultants to negotiate or verify the contributions made through s106, the increasing levels of local authority direct provision of housing is leading local authorities to employ development surveyors to undertake their own housing developments and, at the same time, negotiate these s106 contributions. In case

¹⁵ Letwin, O. (2018). Independent Review of Build Out, https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/752124/Letwin_review_web_version.pdf

¹⁶ NAO (2019). Planning for new homes, <https://www.nao.org.uk/wp-content/uploads/2019/02/Planning-for-new-homes.pdf>

studies and round tables undertaken as part of this research, it was clear that these development surveyors have been able to significantly increase contributions over other methods;

- The research also demonstrated that local authorities have been undertaking their own development through companies and other means to demonstrate to developers that it is possible to deliver housing with s106 and CIL contributions and affordable housing within the council's planning policies and still make reasonable returns on the housing development;
- At a recent GLA event, the RICS made an offer to the Deputy Mayor, Tom Copley that would be willing to engage in a scheme with local authorities to increase the number and availability of development surveyors available to them with this kind of experience.

3. What further steps might be needed?

The proposals in the Planning White Paper do not match the recommendations that the Committee made at the end of its 2018 considerations. The further steps that are needed are to support the Committee's recommendations and apply them as part of the proposed planning reforms that follow from the consultation of the white paper.

October 2020

**Appendix A:
Planning for the Future White Paper:
Consultation response from
academics based at the Bartlett
School of Planning, UCL**

28 October 2020

www.ucl.ac.uk/bartlett/planning/

Introduction

This document is the response from nineteen academics based at the Bartlett School of Planning, University College London (UCL) to the government's White Paper *Planning for the Future*. The Bartlett School of Planning is one of the world's leading centres for planning education and research. This response draws on the research and understanding of scholars with considerable relevant expertise across planning, urban design and real estate.

This response is submitted on behalf of, and co-authored by, the following UCL academics:

- **Dr Ben Clifford** BEM BSc PhD PGCLTHE FRGS FHEA MCIM MRTPI, Associate Professor in Spatial Planning and Government
- **Dr Lauren Andres** BSc MSc MPhil PhD, Associate Professor in Urban Planning
- **Professor Matthew Carmona** BA BArch MA PhD ARB MRTPI FRSA FAcSS AoU, Professor of Planning and Urban Design
- **Professor Claudio De Magalhaes** DipArch MSc PhD FHEA, Head of the Bartlett School of Planning and Professor in Urban Management and Regeneration
- **Dr Dan Durrant** BSc (Econ) MA MSc PhD, Lecturer in Infrastructure Planning
- **Professor Michael Edwards** MA MPhil, Honorary Professor in the Economics of Planning
- **Dr Jessica Ferm** BSc MSc PhD MRTPI, Associate Professor in Planning and Urban Management
- **Dr Sonia Freire Trigo** MArch MSc PhD AFHEA, Lecturer in Urban Planning
- **Dr Tommaso Gabrieli** MSc PhD, Associate Professor in Real Estate
- **Professor Nick Gallent** BSc PhD FRTPI FRICS FAcSS FRSA FHEA, Professor of Housing and Planning
- **Dr Iqbal Hamiduddin** BA PhD FRGS FHEA, Associate Professor in Transport Planning and Housing
- **Dr Katayoun Karampour** BA MA MSc PhD, Teaching Fellow in Urban Planning and Design
- **Dr Susan Moore** BES MES PhD FHEA, Associate Professor in Urban Development and Planning
- **Professor Janice Morphet** BSc PGDip MA MA MA PhD FRTPI FAcSS, Visiting Professor
- **Dr Lucy Natarajan** BA MA MSc PhD, Senior Teaching Fellow in Urban Planning
- **Professor Yvonne Rydin** BA PhD, Professor of Planning, Environment and Public Policy
- **Dr Pablo Sendra** MArch(UD) MSc PhD ARB FHEA, Associate Professor in Planning and Urban Design
- **Dr Michael Short** BSc (Hons) MA PhD MRTPI IHBC, Principal Teaching Fellow in Planning and Urban Conservation
- **Dr Catalina Turcu** BArch DipArch MAST MSc PhD ARB RIBA, Associate Professor in Sustainable Development and Planning

In the following document, we address each of the consultation questions and sections in the White Paper directly. Before we do so, however, we would like to highlight our concern about the way the White Paper is framed and the consultation worded. The proposals implicitly suggest that the approach to planning in England, which incorporates opportunities for community engagement and case-by-case decision making on each application, blocks development and is a principal reason for inadequate levels of housing supply.

There is a lack of evidence presented to support this central claim that democratic planning is causing a housing crisis. The housing crisis is multi-faceted, with complex drivers (Gallent et al, 2018) but there is a lot of evidence for the existence of factors other than planning affecting

supply, such as infrastructure investment, the business models and motives of housebuilders, the lack of funding and capacity for local authorities to build more homes directly themselves (particularly social housing) and so on, before we even turn to demand-side factors. Without meaningful engagement with these broader factors, the fundamental premise that radical planning reform will resolve the housing crisis in England, seems fundamentally flawed.

It also seems important to highlight that as part of this radical planning reform, the White Paper proposes drastic reductions in local democracy through the removal of the opportunity to be engaged on individual planning decisions and focussing such engagement on local plans and design codes which will be more general in nature and produced only every few years; this is regardless of whether there is better use of technology and access to information within community engagement. The consultation questions we are asked to respond to skirt around this key issue of altering the role of local democracy in planning and do not invite respondents to meaningfully comment on them. We return to this theme in our conclusion to this consultation response.

Finally, in terms of general introductory comments, it is also worth noting that the planning system in England has been the subject to almost constant reform over the last decade, against a backdrop of severely constrained resources under austerity. Changes to the scope and scale of planning activity have been implemented at times without any apparent coherence, but against a backdrop of ever increasing cuts in the funding of local government. The National Audit Office have highlighted that there was a 37.9% fall in net expenditure on planning functions by local authorities (NAO, 2019); yet the White Paper fails to acknowledge this important resourcing and reform context of recent years. Some of the issues with the performance of the planning system flow directly from these drivers rather than issues with the foundational approach to planning taken in England.

Having acknowledged this context, we now turn to our comments in response to each section of the White Paper.

Pillar 1: planning for development

1. What three words do you associate most with the planning system in England?

For us - as scholars, researchers or educators - to provide three words to a government consultation would be reductive, meaningless and probably misleading. As scholars in the field we don't wish to suggest that 'word association' is an appropriate way to approach the matter. As researchers we respond to the system in a structured and evidence-based manner. As educators we do not deal in isolated words.

2. Do you get involved with planning decisions in your local area?

As with Questions 16 and 21 below, this and Questions 3 and 4 are more suited to a survey of residents, than a national consultation on a Planning White Paper. We comment on the substantive issues raised by the proposed reforms in subsequent sections.

3. Our proposals will make it much easier to access plans and contribute your views to planning decisions. How would you like to find out about plans and planning proposals in the future?

See above.

4. What are your top three priorities for planning in your local area?

See above.

A new approach to plan-making

Proposal 1: The role of land use plans should be simplified.

5. Do you agree that Local Plans should be simplified in line with our proposals?

NO.

The drivers for simplification of local plan-making are revealed early on in the White Paper. The first is that "it takes too long to adopt a Local Plan" and that only 50 per cent of local authorities have an up-to-date local plan in place (p.12). The second is that, where they are in place, they provide for significantly below the government's ambition for delivering 300,000 homes annually, and "the result of long-term and persisting undersupply is that housing is becoming increasingly expensive, including relative to our European neighbours". Before discussing whether or not we 'agree' with the White Paper proposals, we would argue that the government has paid insufficient attention to:

- **understanding 'why' local authorities are taking too long to adopt a local plan, or why so many still lack a plan at all.** It makes the assumption that complexity, and a lack of 'simplicity' is the problem. Notably, the White Paper does not mention the impact of austerity and cuts to local authority budgets, for example (37.9% cut overall to planning services; NAO, 2019). Slade et al (2019: 8), in research for the RTPi, found that, "in order to adapt in this environment, LPAs have outsourced services, adopted private sector working practices and aggressive pro-development stances to draw in the

funding they need to resource their planning teams” and that there are “signs of a growing backlash”, weaker relationships with applicants, higher staff churn and rising scepticism within planning; and

- **the role of increased demand for housing, particularly through the expansion of cheaply available credit, and the long-term impact of the financialisation of housing** (Gallent, 2019; Ryan-Collins et al, 2017; Ryan Collins, 2018; Stratford, 2016). The simplistic assumption is that the answer to the housing crisis lies solely in increasing the supply of housing, and by extension that the planning system is the main barrier to the increase in such supply (see Ferm et al., 2020 for a critical review of these lines of argument). There is international comparative evidence showing that countries such as Spain and Ireland, which saw a substantial increase in housing supply in the last 10 years or more, have suffered similar rises in house prices (Ryan-Collins, 2018), suggesting increasing the supply of housing on its own will not tackle the fundamental issue of the affordability of housing. The focus on simplifying planning also ignores the substantial evidence of the role of the housebuilding industry in limiting supply. As the report by Shelter and KPMG (2014) revealed, “even if the dysfunctions of the land market are improved, the building industry as it is currently constituted would not be able to build as many homes as we need in the near future, with some major house builders doubtful that the sector could currently build 200,000 homes per year, let alone 250,000. This doubt is supported by evidence and experience, with the average annual output of private house builders since 1950 at just below 130,000 per year and showing a clear trend of decline.” (p.42)

We therefore argue that tackling the problems identified, including increasing housing delivery requires a much more comprehensive package of proposals. These would include a review of the resourcing of local authority planning departments, reforms to the banking system, measures to reduce concentration in and increase the competitiveness of the housebuilding industry, amongst others.

Our primary contribution to this question is that the simplification of local plans is unlikely to achieve the goal of speeding up the planning system and addressing the longstanding issue of the affordability of housing, since the problem itself has been inadequately understood. That said, we have some comments about the proposed solution, in particular the categorisation of land for growth, renewal and protection.

1. The three categories of land – for growth, renewal and protection – are broad categories for development. This categorisation comes across as a **blueprint for housing delivery with no consideration given to the balance of land uses needed to create sustainable places**, with sufficient jobs, retail and leisure. The function of planning to allocate land uses appears to be undermined by this categorisation, with no indication given to how local authorities would be able to generate this balance.
2. **The ambition to speed up the preparation of local plans – adopting a punitive approach for local authorities who fail to produce a local plan in 30 months – sits uncomfortably with the very bold ambitions for up front community engagement.** The White Paper states that “local councils should radically and profoundly re-invent the ambition, depth and breadth with which they engage with communities as they consult on Local Plans. Our reforms will democratise the planning process by putting a new emphasis on engagement at the plan-making stage” (p.20). There is a distinct lack of information on ‘how’ this radical reinvention of community engagement will come about, and whether local authorities will be adequately resourced to achieve it. The Raynsford Review (TCPA, 2018) provides an excellent analysis of the challenges for democratic participation in plan-making and concrete recommendations on how to tackle those challenges.

3. In streamlining the categories to three (or even two, as suggested), and seeking to assign one simple descriptor to each category, this is **likely to generate significant controversy and debate locally**, and therefore we question **whether this so-called simplified approach will be quicker in practice**. The result may well be a longer, drawn-out debate during consultation on the local definitions of these terms, with the potential for substantial objections to local plans, possibly leading to these being overturned in the courts, and thereby significantly increasing the time taken in preparing local plans. In the case that local authorities take short cuts in this process in order to meet the statutory timescales and to avoid sanctions, the result is likely to be more objections once planning applications are received, which the government seems keen to avoid. In all, the political nature of the plan making process will not vanish by virtue of a simplified land use approach. As evidence about the operation of zoning systems across the world show (see for example Biggar and Siemiatycki, 2020), the apparent simplicity of ‘as of right’ envelopes conceals protracted and long processes to agree zoning ordinances and zoning codes (Schulz Bäing and Webb, 2020)
4. The turn to viability-based planning has had uneven consequences, particularly in areas of low market demand, where a lack of ongoing regeneration funding is shifting the balance of development towards greenfield sites, rather than regeneration of brownfield (see Ferm and Raco, 2020). **There is little discussion in the White Paper of the uneven geography and different markets across England, and how this might play into the ‘growth’ and ‘renewal’ designations in these different places**. Indeed, the proposed new combined Infrastructure Levy would tie local authorities’ resources for infrastructure and social housing to the quantity and market value of development taking place, and very low value parts of England would be exempt. Thus, existing spatial disparities would be strongly reinforced.
5. The White Paper is **sketchy on the issue of how ‘substantial development’ in Growth areas, or ‘gentle densification’ in Renewal areas will be defined**. It says (p.28) that it will be “defined in policy” in order “to remove any debate about the descriptor”. However, it is not clear whether this refers to national or local policy. If national, then this is problematic given the current weaknesses in the NPPF definition of sustainable development and the importance of nuancing this in local applications to take account of context. If local, then there are questions around the process for arriving at an agreed definition that complies with the NPPF, and how decisions around the definitions will be made democratically. It seems imperative that local communities should have input into the definitions as well as the designations.
6. The areas of ‘protection’ detailed in the White Paper refer to areas which “as a result of their particular environmental and/or cultural characteristics would justify more stringent development controls to ensure sustainability” (p.29) and include AONB, Green Belt etc. **There is no reference to other protected sites, such as strategic industrial land, safeguarded wharves, land for transport infrastructure etc**. The lack of their inclusion in this category is particularly worrying given the references in the text explaining the ‘growth’ category, which says that this would include “land suitable for comprehensive development, including new settlements and urban extension sites, and areas for redevelopment, such as former industrial sites or urban regeneration sites” (p.28). As recent experience in London has taught us, sites identified as suitable for comprehensive development include many Opportunity Areas – such as the Old Kent Road – where the majority of the Opportunity Area is covered by a strategic industrial land designation and where there are active, productive and viable businesses threatened or displaced by redevelopment for housing (Vital Old Kent Road, 2020).
7. The focus on the need for data driven, interactive digital maps, where areas and sites with the three designations can be easily searched, suggests that these designated

areas will result in clear lines being drawn on maps. Past experience suggests that any such process is **politically fraught** (Lock, 2020) and may trigger lengthy legal battles.

8. The White Paper states that “local plans should set clear rules rather than general policies for development” (p.20) and that development management policies will be set out nationally. The suitability of setting development management policies nationally will be addressed in the next question. Here, we question how there will be an **effective interface between the locally prepared design codes and the national development management policies**, and again express concern that removing development management policies from local control will undermine the objective to increase local democracy and engagement.
9. Although the White Paper does not use the term ‘zoning’ in its proposals for ‘as-of-right’ development in the growth and renewal areas, it is turning local plans and the English planning system effectively into a mixed zoning / discretionary system, as is seen in other countries like Ireland and Australia. This is, however, being done without the sophistication of more developed zoning systems. For example, Victoria (Australia) has 30 zones and 24 overlays and even Japan, not famed for development quality (see Carmona, 2020), has 12. An as-of-right planning system based around just three zones seems highly reductive and unable to tackle the complexities of planning for real places.

Proposal 2: Development management policies established at national scale and an altered role for Local Plans

6. Do you agree with our proposals for streamlining the development management content of Local Plans, and setting out general development management policies nationally?

NO.

If the system is to move to a more automatic granting of permission, rather than a case-by-case discretionary system in growth and renewal areas, then the ability to control development through established policies is ever more important. Restricting the ability of local authorities to exert influence through plans seems to run counter to the idea of more frontloading of decision-making through local plans and risks reducing the ability to prevent harmful development. The relationship between the design code and the local plan is also unclear in the context of an as-of-right system; does the design code count as a local development management policy or not? Similarly, the role for a neighbourhood plan is unresolved.

Whilst some common development management policies might be possible nationally, there are two potential issues here. Firstly, this places ever greater importance on the role of central government in having the capacity and understanding to develop these. In the Australian state of Victoria, there are state-wide policies which then form part of local decision-making on planning permits but these Victoria Planning Provisions are over 900 pages long. If there are only national development policies and they are not detailed enough, there is a risk of poor-quality development in non-specified areas (as we have seen with permitted development; Clifford et al., 2018 and 2020). However, a more detailed document risks becoming so unwieldy that it is extremely slow to produce and potentially offers too little scope for innovative design / planning solutions.

The second issue in only having national development management policies would be a lack of scope for local discretion. The built environment varies considerably across over 300 local authorities in England, as do local attitudes to development and the economics and viability of development. Whilst, arguably, some basic standards - such as space standards for new housing and other factors identified in the TCPA’s proposed Healthy Homes Act - should apply

across the whole country, other standards should be more locally determined, where local planners and communities have much better local knowledge of the context. Such local understanding informs much of the work of development management on a day-to-day basis (for example, Clifford, 2018). This is about much more than just height and density limits.

The alternative suggestion - that there should just be a restriction to prevent local policies which duplicate the NPPF - seems more sensible in helping to streamline the system whilst still allowing for local scope to influence development.

Proposal 3: Local Plans should be subject to a single statutory “sustainable development” test, replacing the existing tests of soundness

7(a). Do you agree with our proposals to replace existing legal and policy tests for Local Plans with a consolidated test of “sustainable development”, which would include consideration of environmental impact?

NOT SURE.

The existing test of soundness is largely a process-based test. It has been clarified but also amplified over time to encompass a local plan being: positively prepared in relation to identified development and infrastructure requirements; justified by reference to a proportionate evidence base and consideration of reasonable alternatives; effective, with particular reference to the need for joint-working across boundaries to deliver on strategic priorities; and consistent with national policy.

There is an argument for avoiding extensive checking of plan-making procedures within an examination and instead focussing on key content and likely outcomes. Professional planning practice, central government guidance, relationships between local governments in an area and the check provided by the planning appeal system are likely to ensure these requirements are met. A process-based test can result in ‘gold-plating’ as a local planning authority seeks to demonstrate that they have complied such requirements and Planning Inspectors seek to demonstrate that they have checked.

That said, there are issues surrounding the reliance on a single test of ‘contributing to achieving sustainable development’. The White Paper does not explain how it defines ‘sustainable development’. This is problematic for at least two reasons. First, there is little consensus on what ‘sustainable’ is and so, sustainability is open to a wide range of interpretations in terms of definitions and operationalisation (Turcu, 2013) with planners themselves struggling to attach a meaning to it (Turcu, 2018a). Second, the White Paper assumes in its introduction that “the achievement of sustainable development is an existing and well-understood basis for the planning system” (p.26). However, it has been argued elsewhere that the NPPF does not provide a clear definition and framework for the delivery of sustainability in planning (Turcu, 2018b).

This lack of clarity on what sustainability means for English planning has had a number of consequences to date. By comparison to other countries such as Germany and the Netherlands, which are repeatedly referenced throughout the White Paper, England has failed consistently to deliver developments which have successfully and holistically embedded the three dimensions of sustainability: environmental, economic and social. In some cases, developments’ environmental and energy targets/standards have been renegotiated by developers under development viability appraisals, and there are multiple examples of developments where little thought has been given to social sustainability. There are some exceptions: BedZED in Sutton London, which is mentioned in the White Paper but was completed almost 20 years ago; and the first phase of the North West Bicester in Oxfordshire, but this has been struggling more recently to maintain its sustainability vision (Turcu, 2018a).

This points to the need for a stronger definition of sustainability to act as a core guiding principle for planning in England.

There has been a common perception that the current emphasis on sustainable development within the NPPF has leaned more towards promoting 'development' than 'sustainability', particularly when taken together with the emphasis on market-determined viability in determining which sites should be allocated by the planning system. The impact of a reliance on a sustainable development 'test' of local plans depends strongly on how the NPPF itself is amended (see Proposal 15). An NPPF that led by considering action to mitigate climate change, protect ecosystems, provide resilience in the face of future changes and support social sustainability would be welcomed. Without this, a reliance on a sustainable development test is likely to lead to unsustainable patterns of urban development. The overemphasis on viability and on allocating viable sites within plans can impact on the possibility to deliver sustainable outcomes in terms of land uses, spatial patterns of urban development, and the incorporation of infrastructure that is essential to sustainable outcomes. It is particularly important that all relevant infrastructure (transport/mobility, green/blue infrastructure, waste management, water management (including flood risk management), decentralized energy systems) are planned at the district, metro-region and national scales for sustainable development and not allowed to emerge from fragmented site-based development planning.

It should be acknowledged that resilience is also part of sustainability; the White Paper makes no reference to this. This is especially important in the light of recent events such as the COVID-19 pandemic but also the climate emergency. These show us that the planning and design of places need to allow for rapid transformation in infrastructures but also flexibility and adaptability in places and spaces. Sustainability cannot be delivered without resilience or vice-versa. This has implications for any proposals to relax planning regulation in response to shocks such as the COVID-19 pandemic.

It does not seem to us that abolishing sustainability appraisals is a necessary or desirable step. Sustainability appraisals are a tried and tested way of clarifying the meaning of sustainable development in the process of preparing a plan, considering how the policies would impact in terms of this goal and of ensuring compliance with national guidelines. There is no evidence of this being a time-consuming process; indeed, on the contrary, these are sometimes completed so quickly that their quality is impacted. Rather than abolishing sustainability appraisals, we would see them as a way of making the link between local plan policies and a stronger and clearer emphasis on environmental and social sustainability within the NPPF.

The alternative option mooted – of reducing the deliverability aspects of the soundness test and, possibly, identifying a reserve of development sites – is problematic. It is not yet clear how the current requirements to demonstrate through detailed calculations a land supply for housing and employment needs will relate to the threefold 'zones' to be identified; does all land in the Growth area, say, have to be demonstrated to be developable within a certain time period and at the densities established in the land supply calculations? Would the reserve of sites be included in the Growth areas? Would this reserve have to be included within the land supply calculations? Such land supply calculations can constitute a substantial component of local plans and be a significant focus of examinations. Their status within the new planning regime would need to be clarified before deliverability could simply be removed from consideration through a simplified soundness test.

7(b). How could strategic, cross-boundary issues be best planned for in the absence of a formal Duty to Cooperate?

It is important to acknowledge the absence of proper-strategic planning for much of England as a glaring absence in our planning system. Without this, we will not be able to tackle the glaring regional inequalities in the nation and will only see an acceleration of the housing crisis in

London and the South East. The UK 2070 Commission's final report (UK2070 Commission, 2020) highlights the issues related to regional inequality in the UK and calls for a national spatial plan.

Strategic, cross-boundary thinking is important for multiple reasons: delivery of infrastructure which can support housing development and economic growth (as recognised in the case of the Oxford-Cambridge Arc, for example), but also environmental and sustainability outcomes. These require whole system thinking and, with the proposed abolition of the Duty to Cooperate, will become ever more problematic to achieve without any compensating replacement. Cowell (2012), for example, comments on the importance of thinking about distant consequences of local action and the way that many environmental problems unfold at wider scales than local authority boundaries.

This issue must also be recognised in the context of the decision of the Coalition Government to abolish regional planning in England (outside Greater London). Tetlow King (for TCPA) showed that 300,000+ unit allocations were removed from local plans when Regional Spatial Strategies were revoked, albeit not all of these sites would necessarily have been delivered (see CLGC, 2011). Regional plans did not facilitate housing delivery because of the local disputes they triggered around the implementation of strategic allocations but the restoration of regional planning would mean the restoration of all the 'functional area' analysis that Regional Spatial Strategies usefully undertook. They were a guide for local plan making, and as already noted, assisted with more than just housing allocations alone, usually with widespread support.

At present we have a patchwork of emerging sub-national spatial plans alongside the London Plan (for example in Greater Manchester and Greater Liverpool). The roles of these strategic plans, or indeed of the London Plan, under the proposed reformed planning system is entirely unclear from the White Paper.

We would propose that the whole of England should be covered by strategic regional plans, which follow functional geographies. These plans could be much shorter than the former Regional Spatial Strategies, and cover different areas. Their function would be to provide a framework for local plan-making, ensuring cross-boundary evidence was brought into the allocation of sites for housing, and thereby supporting the delivery of homes in the right places, as well as better coordination of infrastructure and environmental issues at more meaningful and effective geographical scales.

Proposal 4: A standard method for establishing housing requirement figures which ensures enough land is released in the areas where affordability is worst, to stop land supply being a barrier to enough homes being built. The housing requirement would factor in land constraints and opportunities to more effectively use land, including through densification where appropriate, to ensure that the land is identified in the most appropriate areas and housing targets are met.

8(a). Do you agree that a standard method for establishing housing requirements (that takes into account constraints) should be introduced?

YES, with reservations.

The White Paper proposes that the standard method would be a means of distributing the national housebuilding target (300,000 or 337,000 new homes annually, and one million homes by the end of the Parliament) in a way that:

- 1) development is targeted to areas that can absorb the level of housing proposed;
- 2) the least affordable places where historic under-supply (or at least excess demand expressed in price escalation) has been most chronic take a greater share of future development

- 3) the requirement figure takes into account the practical limitations that some areas might face (including the presence of designated areas of environmental and heritage value, flood risk and Green Belts).
- 4) the opportunities to use existing brownfield land for housing, including through greater densification
- 5) the need to make an allowance for land required for other (non-residential) development; and inclusion of an appropriate buffer to ensure enough land is provided to account for the drop off rate between permissions and completions.

The standard method would also make it the responsibility of individual authorities to allocate land suitable for housing to meet the requirement, and they would continue to have choices about how to do so.

The government's approach is based on the idea that supply and demand have for years been out of balance, that inadequate production explains the escalation of house prices and rents relative to incomes and that a major increase of output would resolve the affordability problems. Although this framing is supported by some applications of standard economic theory, such a simplistic emphasis on lack of supply is equally challenged from various economic perspectives. First, standard economic theory also suggests that the flow and characteristics of credit in an increasingly financialised economy have accounted for the escalation of house prices. Ex-Treasury economist Ian Mulheirn approaches house prices from an asset pricing point of view, showing that price growth is also a result of falling interest rates leading the flow of 'housing services' to be discounted at ever lower rates (Mulheirn, 2020). Meen (2020) discusses this view and cautions that the widespread use of house price-to-income ratios as a measure of affordability is heavily flawed because increases reflect falls in interest rates; furthermore, interest rates cannot explain the long-run increase in the ratio of house prices relative to incomes. Meen and Whitehead (2020) summarize a large body of empirical work on house prices showing that the key influences on the rise in the long-run house price-to-income ratio are the growth in the real household disposable income relative to the growth in the housing stock and the income elasticity of housing demand relative to the price elasticity of demand. Further, a political economy perspective has argued that land is not a commodity like others and the land market comprises a layering of spatial and price-level sub markets in which the power of owners can extract value from ownership in a great variety of ways, harvesting profit from agglomeration economies, from environmental quality variations, from variations in public services and accessibility, and through intensification of current uses as well as addition of new uses (Christopers, 2019; Ryan Collins et al., 2017; Edwards, 2015).

Theorists approaching the issues, however, largely agree that a crucial basis for policy must be to address the affordability of adequate housing. We therefore welcome the intention of the standard method, and especially the attempt to take account of local housing affordability. This would positively contribute to the paramount objective of tackling the present affordability crisis, and would also ensure that price signals are explicitly taken into account when setting housing targets for market-sector output. Economic research shows that the present system of allocating land supply for housing based only on projections of local household numbers, and not on prices, is flawed, since population increase has very little impact on the growth in demand for housing or housing space, and so very little impact on its price.

In a society with the greatest inequalities of the OECD countries (McCann, 2019), unless affordable prices for the less wealthy are achieved, a substantial proportion of households will not be adequately served by market-sector housing. The White Paper fails to allow for mechanisms (e.g. the existing Strategic Housing Market Assessments) which could generate plans to meet these needs. We do not disagree on the principle of the need for a standard method, especially one taking into account affordability, but the five principles would not be enough to ensure housing for all.

Whilst the basic concept is therefore valuable, it appears that the methodology (and formula) set out in the companion MHCLG (2020) paper might be too simplistic/rigid, since it is essentially

based on past affordability indexes and not on projections of future supply and demand, taking jobs and amenities into account. At least for consultation purposes, we would rather advise comparing its targets to more sophisticated modelling approaches based on modelling of house prices, estimating demand and supply given available data. For example, a formal approach to estimating the relative impact of incomes and population on housing demand and price was developed by Cheshire et al. (2000) in the work commissioned in April 1997 by the-then DETR. Using the methods of Cheshire and Sheppard (1997; 2002), the authors based their model on detailed micro and spatial data and, given estimates of prices and incomes, were able to estimate both land and housing space consumption at alternative levels of income and household numbers. Other approaches to modelling are also needed, including analysis of the need for non-market homes (with and without Housing Benefit) and the interplay with private and housing association renting. The activities of CaCHE, the UK Collaborative Centre for Housing Evidence (<https://housingevidence.ac.uk>) may help generate this plurality of approaches.

Since the calculation should be based on more sophisticated and structural house price and rent models that are outside the typical expertise of single local authorities, we do not favour the alternative option of leaving the calculation of development land to local decisions alone. In the absence of proposals for any sub-national government arrangements, we consider that the setting of targets must be an interaction between national and local authorities, with criteria and methods set transparently. It is vital that careful thought, following open consultation, goes into the modelling underpinning any standardised calculation methodology. The specific formula proposed in the companion paper seems narrow and should be critically assessed against other, richer, methodologies.

Finally, national (or preferably regional) oversight will also be needed to ensure that the settlement patterns which result meet the needs of a country battling to limit climate change: the sketchy proposals in the White Paper leave open the risk that 'growth' areas will be the residue after ruling out Green Belts, National Parks, AONBs and so on; these may well be areas quite isolated from existing urban concentrations and thus liable to add to our most problematic category of settlements which generate heavy car-dependence and extended trips, as well as not well integrated into sustainable infrastructure systems.

8(b). Do you agree that affordability and the extent of existing urban areas are appropriate indicators of the quantity of development to be accommodated?

YES, with reservations.

Following on from our previous answer, it is imperative that affordability is used as an indicator. This would positively contribute to the objective of tackling the present affordability crisis (see for example Gabrieli, 2020), and would also ensure that price adjustments/signals are explicitly taken into account when setting housing targets, which has long been advocated by economic research.

Our reservations are that:

- (i) The creation of the new definition of 'affordability' by reference to a percentage of market price/rent levels was a mistake on the part of an earlier government and has brought the entire policy debate into disrepute. The word should be reserved for use only where housing costs exceed a specified proportion of local incomes and the term 'sub-market' used to cover dwellings occupied at lower-than-market rents/prices; and
- (ii) The inclusion of size of existing urban area needs further thought. It was presumably included to ensure that larger areas – even if affordable – would have to enable the construction of at least some homes. However, if applied at existing district and London Borough levels it could produce some unintended outcomes in tightly-bounded areas.

A streamlined development management process with automatic planning permission for schemes in line with plans

Proposal 5: Areas identified as Growth areas (suitable for substantial development) would automatically be granted outline planning permission for the principle of development, while automatic approvals would also be available for pre-established development types in other areas suitable for building.

9(a). Do you agree that there should be automatic outline permission for areas for substantial development (Growth areas) with faster routes for detailed consent?

NO.

The proposal presupposes that the granting of automatic outline planning permission for larger developments in Growth areas will speed-up housing development in those areas, and is further based on the assumption that the current discretionary planning permission system is and would be a significant obstacle to development in those areas. Any answer to the question of whether or not we agree with the proposal requires first that we examine these assumptions.

Recent research for the RTPI looked at whether granting automatic outline permission in the form of Permission in Principle (size, location and mix of a development) would reduce planning risk in relevant sites and therefore facilitate housing supply (Gallent et al., 2020; de Magalhães et al 2018). The evidence is mixed, suggesting that the process of obtaining planning permission is not the main obstacle to development.

Firstly, we already know that permission at the local-plan stage is not a definitive green-light to development. The current planning system already contains the possibility of outline permission for the principle of development (and has done so for a long time) and that has not demonstrably led to an increase in the supply of housing. Outline planning permission does not in itself remove all the uncertainties associated with the technical details of development, which will need to be approved at a later date. Rather, it would be the first of a two-stage process. The principle of development permission (on an earmarked site) would be acknowledged in the plan, but approval of the detail would still need to be granted later on. The extent to which this might reduce risk and speed up development depends on how these two stages are connected, what exactly they cover and what form and level of compliance needs to be demonstrated in each. We already know, for instance, that developer contributions (to infrastructure or affordable housing provision) cannot be stipulated in the principle, so agreement on contributions needs to be reached at the second stage. We also know that this is often a protracted process. Bringing together those two stages (permission in principle and approval of technical details) is not an insurmountable challenge: the comprehensive use of design codes mentioned elsewhere in the White Paper could help ensure public influence over the quality of development and fixed infrastructure levies, linked to an understanding of likely development cost, could provide the basis of value capture. However, doubts have also been raised over the attempt to engineer an infrastructure levy based on market value – in part because of the threat to development viability in weaker markets that such a levy may pose (Crook et al, 2020).

Secondly, an effective system of permission in principle at the local-plan stage is entirely dependent on local authorities gaining a detailed understanding of each permissioned site, thereby ensuring that there are no impediments to progressing development at the scale and configuration envisaged. This detailed understanding extends from legal title to market intelligence. At the moment, these costs are borne by developers. Moreover, as recognised in other proposals in the White Paper, permission in principle also requires detailed codification of

rules, in plans and rule-books that will be subject to protracted consultation – to ensure adequate and acceptable ‘front-loading’ of public involvement. Local authorities will need to expend considerable resources on such investigations, requiring a significant injection of additional funding. At the moment, planning in England – and across the UK - is under-powered and under-resourced (RTPI, 2019), which means that it would be unable to operate an effective rules-based system of planning permission as implied in the proposal.

Thirdly, nothing is certain in land development – even if outline permission is automatically given – and therefore consideration must be given to the retention of flexibility. There seems to be an assumption that automatic permission could be conferred on all development, irrespective of scale, and once that is settled the development will progress smoothly without ever having to review that permission. However, market conditions when a site is developed might be very different from those prevailing when the local plan, with its in-plan permissions, was approved. The discretion to vary decisions and conditions offers the potential to develop a site in ways not originally envisaged, and thereby preserve the viability of development. In principle permission at the local plan stage risks a loss of flexibility that may cause development (and housing supply) to grind to a halt in more challenging market conditions, because planning authorities are shackled to outdated decisions, and re-negotiations on that principle might depend on re-doing the local plan. The experience overseas, and especially in the US, is that discretionary review is required and demanded for large developments as market conditions change and what was viable or desirable at the moment of planning approval might no longer be viable a year or two in the future (Biggar and Siamiatycki, 2020).

Lastly, available research suggests that how a system of permission in principle (at local plan stage) for large developments affects development output will depend on a prospective developer’s business model. Some models are more sensitive to uncertainty and delay than others. The aggregate impact on the pace and volume of development will thus depend in part on the composition of the building industry and what portion of that industry stands to benefit from permission in principle. It is generally the case that larger low-density schemes, using land options for site assembly, have lower capital costs and locate at urban edges or rural hinterlands, where ground risks may be less pronounced. High density urban schemes, on the other hand, rely heavily on private (and public) investment upfront and incur higher costs of capital (having to raise private finance much earlier) and face greater ground risks. It is for the latter schemes, where risks are inherently high, that plan-based automatic permission might be most beneficial. The same applies to small developers in smaller sites, for whom uncertainty and delays can make or break a project. Build to rent developers are looking to switch on their rental income stream as quickly as possible, so any acceleration of planning will be welcome. Conventional build for sale, on the other hand, seeks to track the local market: it does not necessarily need faster permission, but rather requires synchronicity between permission/land purchase and market low-point, and then between disposal and market high-point. This is achieved through the phasing of development over a number of years for very large projects, which benefits from the ability to renegotiate the principles of permission as the market changes.

This leads us to answer that this proposal could be made to work, and in doing so potentially bring some benefits for example to SME housebuilders, but the proposals are highly dependent on other issues to work successfully. Most importantly, such planning-led development proposals only work where local authorities are sufficiently well-resourced to do all the necessary upfront work. There must also be some flexibility in-built into the system to allow for adaptation to unforeseen circumstances, and there must be a well-articulated account of permission and technical detail. The example of permitted development for change of use raises the question about capacity and approach for such detailed matters in decision-making if these are not adequately specified. There are also concerns about how environmental and equality impacts would be properly considered.

Automatic permission could, in theory, work but would only be positive in the context of wider measures, and still leave issues around scope for democratic engagement if there is no possibility for public engagement and input on case-by-case decisions; (this could actually still be possible, even if the principle of development were more automatically established). We believe there is some value in holistic case-by-case decision-making with suitable democratic opportunity, and so on balance are not supportive of these proposals.

9(b). Do you agree with our proposals above for the consent arrangements for Renewal and Protected areas?

NOT SURE.

The answer for Renewal areas is broadly the same as the one presented above for Growth areas. Fast-track permission for pre-specified forms of development could be made to work, but would need much better specification of detailed, technical standards than we have seen under permitted development and prior approval to date. This should include the various factors proposed by the TCPA under their Healthy Homes campaign (<https://www.tcpa.org.uk/healthy-homes-act>), not least minimum space standards. Even so, they could still encounter the difficulties listed above.

Without the details of a faster approval process being specified in the White Paper, it is difficult to agree or disagree with the proposals. A sensible speeding-up of consent for high quality development seems reasonable; and the use of Local or Neighbourhood Development Orders would follow current practice, with the latter having potential to support community projects.

The answer for Protected areas is that consent arrangements look to be unchanged from current practice. This in itself is not problematic, but could miss some potential areas for positive reform. For example, if we are talking about rural areas, outside village envelopes, then there may well be a case for replicating those aspects of Growth area consenting that give special support to community-led and self-build housing (see p. 29 of the White Paper). Sub-areas allocated for these types of housing would be welcome in many rural areas.

9(c). Do you think there is a case for allowing new settlements to be brought forward under the Nationally Significant Infrastructure Projects regime?

NO.

The Nationally Significant Infrastructure Project regime is not fit for the purpose of consenting new settlements to be developed in England, as presently constructed. We are also concerned that there is no way to 'level up' England when delivering new settlements under NSIPs consenting processes as things stand. As explained below, this is primarily because the regime does not contain spatial guidance on the actual matters of national significance or balance.

In answering, we note that: (i) national infrastructure decisions would also benefit from spatially explicit national policy; (ii) the present regime performs well in terms of transparency, and offers opportunities for publics to engage with regulatory processes; and (iii) PINS Inspectors/Examining Authorities have the requisite skills with expertise won over many years of experience and, when working in teams, can provide diversity of specialisms for the task of consenting infrastructure and/or new settlements. We also wish to emphasise that we might be more supportive if (i) there were a national spatial plan or a set of regional spatial plans covering the country that could provide the proper context for this, (ii) NSIPs Examining Authorities had the appropriate (i.e. greater) level of support and resourcing, and (iii) the challenge to public engagement found in our recent studies were addressed (Natarajan et al., 2019; Clifford and Morphet, 2019).

The NSIPs regime doesn't contain either national or regional guidance that sets out what should be considered as regards *national land use matters*. The equivalent regime in Wales is supported by a Welsh Spatial Plan, and a democratically produced, well informed, and predetermined set of statutory guidance that must be referred to in Welsh consenting processes. This consists of a) policy specifying those locations where specific types of major infrastructure should be encouraged or not, and b) advisory notes on the technical detail that are critical to ensuring best practice in relation to technical restrictions around infrastructure (e.g. in relation to density).

The lack of a similar spatial policy in England today is problematic for consenting infrastructure, and would be doubly so for new settlements. The problem for infrastructure is relatively simple - there is no forum for consideration of the relative merits of sites across the whole of the country for specific infrastructure types (here we can point to the wasted efforts involved in the application for an off-shore wind farm just off the World Heritage coastline discussed in Rydin et al., 2018a). The present aspatial national policy statements for England on national infrastructure prevent NSIPs examining authorities considering locational matters in a strategic way. Local Plans and other protections are easily over-ridden by national (aspatial) policy and/or decisions risk being mired in judicial review or political wranglings after consent.

The lack of spatial policy for NSIPs is even more problematic when it comes to new settlements. The relevant matters are more complex and, which is worse, were new settlements to be regulated under the system in its present form, there is no way to fulfil the promises of the present government around 'levelling up'. Even considering Renewal areas, there are significant spatial factors that need to be considered in determining whether as well as how to develop a new settlement on a specific site. The factors are also more complex - they include locational assets that might need protection, but also local demand/economic need.

Without a national spatial policy on the best possible sites for large scale new settlement projects, their national distribution, and associated development implications (as would be provided by a series of regional plans for instance, but not Local Plans either as they stand or in the proposed revised format) there is no robust mechanism for the regulator to consider the merits of the proposal/application in relation to such matters. Thus, the implications of (for example) transport / retail / employment / housing / services for the surrounding areas and the 'balance of development' across the country as a whole would not have appropriate weight in the decisions (as evidenced by the case of the distribution of onshore windfarms in Wales discussed by Natarajan, 2019a). The fear is that the 'easiest' or 'cheapest' sites to develop would be selected, rather than those where there might be the greatest public interest in development.

Furthermore, without a parliamentary-approved National Policy Statement on major new settlements, it is unclear through what mechanism and under what framework the predetermination of the principle of development - which is perceived by many as such a powerful part of the NSIPs regime - would operate (Clifford and Morphet, 2017). The fixed timescales of the NSIPs regime and centrally-managed decision-making may appeal to some, but it is important to consider to what extent problems with the local planning system per se have actually caused difficulties with recent proposed major new settlements (such as the new garden communities proposed for north Essex), and to what extent this is due to issues of infrastructure (physical, social, green), community confidence around this, land assembly (including current approaches to CPO powers in England), and the way that government policy forces viability to be assessed in the planning system (which is unsuitable for major new settlements delivered over long timescales).

Proposal 6: Decision-making should be faster and more certain, with firm deadlines, and make greater use of digital technology

10. Do you agree with our proposals to make decision-making faster and more certain?

NOT SURE.

There are elements of the proposals that are clearly welcome on ease and clarity of application and, given the stated intention of this is to allow those proposing smaller developments to have certainty, this is something we broadly support. We would urge the government to clarify that 'those proposing smaller developments' refers to SMEs, Self-Builders and Cohousing schemes with a view to promoting a more diverse housebuilding sector rather than simply encouraging smaller developments that, for example, stay below threshold levels for the provision of affordable housing.

On the question of faster decision making, we would argue that speed should not be pursued as a stated aim in its own right. Timeliness of decisions is clearly important; however, evidence from the NSIP regime which was reconfigured in the 2008 Planning Act to deliver a faster more certain process shows that: (i) regulatory and particularly planning delay is by no means the only or most significant cause of delayed delivery, in this case of infrastructure (Marshall & Cowell, 2016), and (ii) that a speeded up regulatory system has not necessarily produced more development given other factors (Clifford and Morphet, 2017).

Research has shown that delay can be beneficial to, and indeed engineered by, the private sector (Raco et al., 2018) and this capacity to 'game' the system by those with the resources and interest to do so is something needs to be acknowledged in any reform of the process. Delay can be beneficial to all parties if, for example, it allows time to improve and develop a proposed development that may be marginal or complex. This is particularly the case if the alternative is simply to reject such applications (which may be more likely to come from those with less resources and experience of the system) in order to meet overly rigid or arbitrary deadlines.

The potential benefits of having the time to 'do it right' can be seen in the case of the King's Cross regeneration which features as an illustration in the White Paper, presumably because it is perceived as an example of good planning and development. The granting of outline permission followed an extended period of intense interaction between developer, council, surrounding communities and occupiers. Indeed, in one part of the regeneration area, an initial scheme was rejected by Islington Council but the revised brief, developed with community inputs over time, was prize-winning and commercially successfully (Edwards, 2010).

Whilst the commitment to resources in the spending review is welcome, this could be considerable and thought needs to be given as to how the safeguards provided by the current system are maintained up until any new system is functioning effectively. One safeguard that we notice has been removed is the right of local communities and authorities to comment on specific proposed developments; this is a right retained by the Secretary of State through their powers to call in applications. It appears that applicants will still retain the right to appeal an unfavourable decision which would appear one-sided. There seem to be considerable risks that this could further undermine faith in the system in circumstances where 'gaming' the system had occurred and forms of development that had not been envisaged at the plan making stage were not effectively managed but rather delivered in the face of local objections.

We would observe that whilst there is much to welcome on the digitisation and standardisation of the application process, this is a complex task which given the history of government IT systems will inevitably take some time. The input from applicants is clearly intended to operate in a relatively consistent manner from place to place. Nevertheless, the data on which the determination of these standard applications is based likely to vary considerably given the unique nature of each individual site and location.

A relevant case here would be simplifying and streamlining the EIA process via digitalisation and use of Big Data. 'Digital EIAs' could enhance engagement with environmental aspects and/or environmental data collection, with better integration possible: while big data collects monitoring data and is effective in gauging response to real impacts on the ground, EIAs need to model data from a baseline spanning over a period of years. Hence, building big data into the EIA processes could help with making these processes 'speak' to people on the ground by making them more transparent and dynamic, and showing real environments effects/ impacts/ outcomes at the local level. However, it is an expensive system to implement (i.e. set-up and manage); and, as with any type of digital information, it is not accessible to all.

The White Paper makes a case for an increasing role for matrix/system thinking approaches and big data use. This can be achieved, especially with a view to cutting down unnecessary duplication, surveys and data collection and avoiding formulaic approaches to data collection. Yet, the White Paper does not recognise two things. First, there is already a lot of data collected by planning consultancies, agencies and local authorities; hence, planning needs to get better at mining and accessing this data and databases. Second, collecting data and analysing data correctly is expensive and so, investing in 'digitalisation' will be necessary.

The final point to make on the greater use of digital technology is that it is by no means comprehensive. Different sections of society vary in their ability and inclination to use digital technology. Furthermore, being able to view often quite complex spatial and graphical material requires abilities, bandwidth and equipment (for example, detailed plans of renderings of proposed buildings are very difficult to view on the type of small screen used in smartphones and even many tablets) that are not equally distributed across the country, different age groups and communities (see Natarajan (2019b) and Natarajan et al. (2019) in relation to the inequality that can be related to engagement that relies on having high speed and unlimited internet access).

A new interactive, web-based map standard for planning documents

Proposal 7: Local Plans should be visual and map-based, standardised, based on the latest digital technology, and supported by a new template.

11. Do you agree with our proposals for accessible, web-based Local Plans?

NOT SURE.

The emphasis in Proposal 7 and indeed throughout the White Paper is on 'modernising' planning, moving it away from documents towards a data-led emancipation. But what is data? What will data-led planning mean in practice? In principle, it sounds positive to fully digitize and standardise local plans but this is not something that can happen overnight. Whilst the proposals suggest progress in improving documentary clarity (via map-based plans and unified platforms etc.), there is little evidence of the 'data infrastructure' (Kitchin, 2014) needed to deliver on the promise of standardisation, in terms of data definition, data access, and data conservation.

The current digitally naïve approach for local plans in England is certainly not making best use of available technology. The potential can be seen in other nations, for example in Denmark where every local plan can be accessed from a single map for the whole nation or the Netherlands where a system is in development whereby the plan policies applying to each site for the whole nation can be accessed. This can help all stakeholders. Having plan policies essentially in a PDF document and not georeferenced is now outdated, as are the planning application databases used by most authorities whereby simple searches and data availability for the public are woeful.

Empirically, however, we know that standardisation is incredibly challenging. Take as an example, the London Datastore - as a data resource, invaluable, but an intuitive tool for a range of potential data users to navigate and apply to local planning and policy, it is not. The datastore has itself undertaken a recent reconfiguration (LDS 3.0) to tackle the challenges of fragmentation and secure data sharing. This is challenging enough to develop, maintain and improve at the metropolitan level over the last decade; how will a national standardisation programme be delivered in a timely manner?

The answer proposed in this White Paper is to bring in the Proptech sector. But due caution is needed here. Indeed, the fast growing Proptech industry is providing much needed improvements in communicative infrastructure to local authorities. Currently, we have at best an immature patchwork of platforms 'serving' local communities and with this comes the secession of responsibility for transparent, accountable, and meaningful publicly-accessible planning information to what are third-party proprietary commercial tech enterprises. Their introduction to local governance is not neutral and it should not be presented as if it were. Admittedly, some consultative platform developers, such as the London-based 'Commonplace' (cited in footnote 12 in Proposal 7) are providing positive indications of the potential for geo-locational interactive interfaces which permit the 'heat' map style collection of public sentiment and instantly available visualisations of reactions to proposed local development and policy changes. But, at this point in time, it is questionable if any single Proptech platform is capable of scaling-up to provide the consultative apparatus for the whole country, and no clear framework for unifying platforms has thus far been set out.

Finally, having the data does not make it automatically usable, accessible and sharable. Proposal 7 suggests a 'radical rethink' [2.46] but it is trying to do two things at once, with neither one immediately attainable. The emphasis is placed on a shift to data-led local plans via utilising and improving the platforms for data visualisation (i.e. map-based interfaces). However, there remains a clear disjuncture between the mechanisms and tools of data visualisation and the mechanisms and tools for engagement and widening participation. Digital technology alone does not set the conditions necessary for meaningful and democratic public engagement.

The tone of the White Paper is worrying in its promotion of the capacity of developers and Proptech providers to operate fluidly within the planning system and culture, whilst saying very little about how the digital rethink will ensure marginalized voices and harder-to-reach communities also benefit. So, in short, the proposal attends only to the methods of documentation and information delivery, and explains very little about how the digital-first approach will cope with non-quantifiable data – the important qualitative reach of planning and planners in the community. The value of the technological improvements in data access (i.e. the uni-directional flow of information) must be sufficiently matched by new approaches to and resources for widening and deepening meaningful community engagement.

A streamlined, more engaging plan-making process

Proposal 8: Local authorities and the Planning Inspectorate will be required through legislation to meet a statutory timetable for key stages of the process, and we will consider what sanctions there would be for those who fail to do so.

12. Do you agree with our proposals for a 30 month statutory timescale for the production of Local Plans?

NO.

There appears to be two overarching goals of the White Paper in respect of this 30 month process. The first is to bring forward development speedily. The second is encouraging the

production of plans. As explained here, we cannot agree with the proposals because they are unlikely to achieve the goals. The proposals within the White Paper are unlikely to speed up the production of plans (of any type), since 'speed' of planning for development rests on the ability of stakeholders to evidence and agree on proposals, rather than the smoothness of processes themselves. This means that mere procedural shifts are fundamentally unable to speed up (beautiful or well-planned) development, or at least not in a democratic way.

Therefore, we suggest expanding opportunities to engage with the evidence for plan-making, and thus boost the democratic legitimacy and longevity of adopted plans. In particular, Stage 1 is a six month period when LPAs across the country are expected to hear proposals on the three categories of land use, and the time when LPAs might hear directly from stakeholders. It would be highly appropriate to encourage a diversity of modes of engagement rather than narrowing down to some notional 'best in class' approach to engagement. This time is also critical for evidence gathering, and arguably where the greatest gains in terms of efficiency might be made, since working through understandings and identifying missing evidence as early as possible can help to prevent difficulties in later stages. There is no mention of how local communities would be supported in order to contribute at this stage, which raises questions about the value of this stage for any increased speed of development overall. Stage 2 is a 12 month period for each planning authority to produce the plan, to be examined at Stage 3, with 'sustainable development' tests. These new tests may be easier than the current appraisal system; however, putting the squeeze on the local planning authority's time to produce plans, will leave ironing out evidentiary difficulties to the examination stage. This will likely result in hearings where those with the greatest capacity and resources to engage (rather than those with the best evidence) fare best. Again, an indication of the support that would be provided for such processes would enhance the case for this approach.

It has long been accepted that the system should be plan-led, and measures to speed-up the delivery of local plans are, in principle, welcome. However, if new style local plans are to play such a vital role under this proposed reformed system, then there must be sufficient time to get them right. This means ensuring sufficient resources are available to local authorities to make plans, and to the Planning Inspectorate to examine them. An arbitrary 30-month time limit does not seem to deliver this, and it is unclear how PINS would manage this workload of so many new-style local plans to consider simultaneously.

Proposal 9: Neighbourhood Plans should be retained as an important means of community input, and we will support communities to make better use of digital tools

13(a). Do you agree that Neighbourhood Plans should be retained in the reformed planning system?

YES.

Community engagement is critical to producing high quality and meaningful local place-making and to producing planning outcomes that balance the range of local needs and perspectives. In reality, however, the planning system has often felt remote, technocratic and inaccessible to those only with significant reserves of time to spare - and at the right time. Neighbourhood Plans have provided local communities with the means to engage proactively with formulating development policies and plans for their areas (Gallent et al., 2020). This has often meant identifying and articulating local priorities and reconciling these with strategic objectives, undertaking problem solving from 'first principles' and generating imaginative solutions to address local issues. Indeed, a number of studies have shown an overall propensity for Neighbourhood Plans to boost housing outputs above baseline targets set out in Local Plans (e.g. NALC, 2018; Lichfields, 2018) and many have established codes for improved design and sustainability well in advance of climate declarations and arguments for 'building beautiful'.

Overall, Neighbourhood Planning has become an important element of participatory democracy in over 2000 localities across England, and should become a primary means for local communities to engage with planning. Indeed, they could become a principal vehicle for bringing communities into the frontloaded engagement envisaged in the White Paper if there is more comprehensive and sustained engagement with neighbourhood planning groups than happens at present. It should be strengthened by improved outreach, including the use of available state-of-the-art participatory techniques to include the widest range of voices.

13(b). How can the neighbourhood planning process be developed to meet our objectives, such as in the use of digital tools and reflecting community preferences about design?

While we support that Neighbourhood Planning should be retained in the planning system, there are a number of areas where it could be improved to ensure that it is more democratic, co-operative, efficient and that they are fully implemented:

1. Support in the plan-making process: we value that there are existing packages of economic and technical support, which are granted through Locality. However, Neighbourhood Planning still relies on a lot of hours of voluntary work by residents, local expertise of residents or supporters with planning knowledge, and a long-term commitment during the whole lengthy planning process (see Sendra, 2018; Sendra & Fitzpatrick 2020), which has proven to be 'burdensome' for communities (Parker, Lynn and Wargent, 2014). For addressing this, we propose providing free training in plan-making for those that want to pursue a Neighbourhood Plan. This could be done by local authorities or by the central government. It could also be done through partnerships with universities.
2. Having funding available to pay local residents who coordinate the Neighbourhood Planning process. This would avoid one of the problems with Neighbourhood Planning: only those who can afford to dedicate time to the process participate.
3. Ensure that local authorities work in cooperation with Neighbourhood Forums or Parish Councils: there are some situations where local authorities, rather than co-operating with Neighbourhood Forums and helping them to carry out their Neighbourhood Plan, put difficulties in the way of the process and/or proceed with a regeneration scheme for an area that is within a Neighbourhood Planning Area without engaging with the Neighbourhood Forum (see Sendra, 2018; Sendra & Fitzpatrick 2020). This results in a double-effort in the plan-making process, since both local authorities and Neighbourhood Forums work separately on planning for the area, resulting also in conflicting views/plans for an area. To avoid this, we propose that once a Neighbourhood Planning Area has been designated, the local authority should have a statutory duty to cooperate with the Forum or Parish Council for any decision made for any site within its Neighbourhood Planning Area. Even when the Neighbourhood Plan has not been developed yet, there needs to be effort to avoid a conflict between the vision of the local authority and that of the Forum or Parish Council.
4. Funding for plan implementation: Through Neighbourhood Planning, communities should be able to propose improvements in their public spaces, community facilities and infrastructure. Currently, the only way to fund such proposals is through a proportion of the Community Infrastructure Levy (CIL). One of the main weaknesses of Neighbourhood Planning is that it depends on development taking place. Without development, there is no CIL, and without CIL money the proposals cannot be fulfilled

(see Sendra & Fitzpatrick, 2020). To avoid this, local authorities should provide, for every Neighbourhood Plan that is brought into force, funding to carry out one of its proposals (regardless of the CIL money available). This could be a public space, a community facility, regenerating a high street or any other proposal included in the neighbourhood plan. Local authorities and Neighbourhood Forums should work together on deciding which proposal is funded. Central government should provide local authorities with funding for developing these proposals, particularly those with less or no CIL money.

5. Digital tools: We welcome the proposal of having digital tools that help communities to make proposals for their neighbourhood or that help them to decide on design preferences. However, this must not substitute for the Neighbourhood Planning process. Such tools carry the risk of becoming a form of tokenism where residents do not meaningfully participate in relevant decisions and their participation is limited to issues such as the colour of the buildings. The digital tools also need to come along with appropriate training to use them. In summary, we propose the following tools to support residents in the plan-making process (but not to substitute for it):
 - i. Databases that help them to produce the evidence-base that supports their proposals for Neighbourhood Plans.
 - ii. Access to local maps and local data.
 - iii. Tools that help them to draw (2D and 3D) their proposals.
 - iv. Video-conferencing tools.
 - v. Training to use all these tools.

Speeding up the delivery of development

Proposal 10: A stronger emphasis on build out through planning

14. Do you agree there should be a stronger emphasis on the build out of developments? And if so, what further measures would you support?

YES.

The gap between planning permissions and housing delivery is considerable. The LGA estimates that there are more than one million homes consented and not yet started on site. This is in addition to the land that has been allocated for housing in local plans but not yet consented. The Letwin Review (2018) pointed out some of the reasons for these delays on larger sites and suggested some specific remedies including diversifying the scale and type of development on these larger sites. However, this will not support the build out of all these unimplemented consents and, in order to support their delivery once permission is granted, there is a need to recognise what is causing these delays and how they might be remedied. From research undertaken by Bartlett School of Planning academics (Morphet and Clifford, 2017 and 2019), we can offer a range of insights and potential solutions through changes in policy, guidance and legislation. These are as follows:

1. The type of housing supply policies in local plans largely only produces market housing for sale whereas demand is much more mixed by type and tenure. Sites allocated in local plans are thus over-dependent on the market for delivery. If local plans could identify sites to meet housing need that will be delivered by a range of bodies (including public bodies), then delivery would be faster;
2. Where sites are made available either through Homes England or through Homes England grants e.g. HIF, there should be requirements for build out timescales within the land sales/leases and grant regimes;

3. Where sites are supported through government loans or other support such as the provision of infrastructure funding through Local Enterprise Partnerships, growth, city and devolution deals or new development corporations as in the 2020 Budget, they should be accompanied by legal requirements related to delivery;
4. Once planning permission is granted, then sites could be required to pay a 'permission' tax on permitted but not implemented homes;
5. Where sites are not implemented within a specified period, local authorities should have the right to compulsorily purchase them for housing development.

Pillar 2: planning for beautiful and sustainable places

15. What do you think about the design of new development that has happened recently in your area?

The categories appear to suggest that ugliness and good design might be conflated, and while they might (for some people) be conceptually interchangeable, it is vital to identify where aesthetically pleasing designs are socially deficient design (especially the pretty but weak infrastructures/cladding and the well-appointed but exclusionary public spaces that are on the rise). The suggested answers to this question are leading and unhelpful in properly understanding these issues.

It is, however, evident that more often than not the current planning / development system delivers unsustainable and unattractive large-scale development. *A Housing Design Audit for England*, published in January (Place Alliance, 2020), utilised a nationwide audit of 142 major housing schemes to reveal that three quarters of new housing development in England is mediocre or poor as regards its design; a fifth should never have been given planning permission as the design is so clearly contrary to advice given in the National Planning Policy Framework (NPPF). To make matters worse, the less affluent are most effected (ten times more likely to suffer poor design), exacerbating disadvantage rather than helping to 'level up'. This clearly does require urgent action.

16. Sustainability is at the heart of our proposals. What is your priority for sustainability in your area?

Like Questions 1-4 and 21, this question is couched in the terms of a resident survey. We make key points about sustainability in response to Question 7a above.

Creating frameworks for quality

Proposal 11: To make design expectations more visual and predictable, we will expect design guidance and codes to be prepared locally with community involvement, and ensure that codes are more binding on decisions about development.

17. Do you agree with our proposals for improving the production and use of design guides and codes?

YES, with reservations.

The White Paper proposals for design guidance and codes need to be discussed in the context of those for a simplified zone-based planning system of which the codes would be a part. Zoning systems are not all the same. Pure as-of-right systems offer simple, speedy and effective control, but do so at the expense of design quality as there is little site-based interpretation or response to context. To overcome this requires either that zoning is overlaid with complex discretionary mechanisms and / or long and complex zoning ordinances (e.g. New York), or encompasses highly sophisticated design-based mechanisms created to shape design outcomes on a site by site basis e.g. Germany or the Netherlands (see also above for further discussion of this).

We already have mandatory local codes in place across the country, care of the locally adopted highways design standards from our highways authorities. In the absence of a creative design process intended to optimise the potential of the place (each site), these tend to be applied in a

purely technical manner with little reference to context. They give rise to the sorts of highways and parking dominated developments that featured so heavily in *A Housing Design Audit for England* (Place Alliance et al, 2020a).

By correlating outcomes with processes, *A Housing Design Audit* revealed that the most effective tools for delivering good design were, by some margin, site-specific design codes followed by design review. Schemes that benefitted from such design codes were five times more likely to appear in the 'good' or 'very good' categories than in the 'poor' or 'very poor' ones. Schemes that benefitted from the advice of a design review panel were four times more likely.

The audit confirmed that to achieve good design requires more than the application of a generic list of design parameters (e.g. in a local design guide), it requires a proactive and site-specific creative process of design coding and accompanying peer review. In other words, **a plan (or perhaps zone) + site-based code + design review model**. Such systems are common amongst our near neighbours in Europe and they work. They have the advantage that site-based codes are produced incrementally as sites come forward for development, and don't need to be produced all at once during the zoning phase of plan-making.

Site-specific design codes don't have to be hugely complicated and expensive to produce either. The White Paper picks up on the idea of local authorities themselves using pared back **Coordinating Codes** as a means to establish a clear and concise set of site-based design parameters for sites early in the development process as a means to guide more detailed design work later on. The White Paper also commits to legislate to require site-specific codes as a condition of Permission in Principle in Growth areas. This should be extended to all significant development sites with, at the very least, a Coordinating Code produced for all sites over thirty units, regardless of which zone they are in.

The status of site-specific codes also needs to be clarified in the proposed revisions to the NPPF, namely that, once prepared they are fully enforceable by local planning authorities and are not just guidance that can be ignored by less scrupulous developers once they have their 'automatic' permission.

Produced early and in such a clear and accessible manner, Coordinating Codes would provide the ideal basis for the upfront and fundamental participation of communities in the planning process – something the White Paper aspires to see although without giving much detail. Perhaps stemming from a hands-on charrette, they can provide the basis for engagement around real development principles which can be understood by all without the technical detail and language that so often makes later consultation unsatisfactory. There might also be scope for the creation of a community design review panel with representatives of various community organisations (residents associations, community interest groups, faith groups, and other members of the civil society that reflect the diversity of the local authority), which co-produce and revise design codes/guidance along the lines discussed above. However, a community design review should not be considered a substitute for professional design review panels which, as already noted, represent one of the most effective means to positively influence design quality. Whatever the precise approach, it would seem important to produce guidance for local authorities on how the community involvement in the production of local design codes and guidance should take place to ensure that it is meaningful.

Proposal 12: To support the transition to a planning system which is more visual and rooted in local preferences and character, we will set up a body to support the delivery of provably locally-popular design codes, and propose that each authority should have a chief officer for design and place-making.

18. Do you agree that we should establish a new body to support design coding and building better places, and that each authority should have a chief officer for design and place-making?

YES.

As the report *Design Skills in English Local Authorities* (Place Alliance, 2017) showed, currently our local planning authorities have little capacity and a shortage of skills required to prepare design codes or indeed any other proactive design guidance.

To break this cycle will not be quick or easy – we need a new national investment in the skills and capacity of our planning system (and in our highways authorities and amongst our large housebuilders). It will require a culture change, one in which design quality is routinely prioritised by local authorities and developers alike. In this respect the commitment in the White Paper to develop a comprehensive resources and skills strategy is both welcome and fundamental, as is the proposition that each local authority should have a chief officer for design and place-making. This, however, should be a new position with a dedicated team, not just a re-labelling exercise and a re-shuffling of existing limited resources. Nothing of the ambition of the White Paper will be delivered until and unless we invest significantly in our vital planning services.

In May, the pamphlet *Delivering Urban Quality, Time to Get Serious* (Place Alliance et al., 2020b) called for such a culture change. It argued that this will require focus, design capacity, determined leadership and proper resourcing, and called on the Government to urgently set up a dedicated Design Quality Unit for England in order to confront the challenges head on and focus on changing the culture of design as part and parcel of any changes to the planning system. It is therefore very welcome to see the commitment in the White Paper to explore options for establishing such a new expert body.

As argued in the pamphlet, such a body should work through a partnership and networked approach across the country to ‘monitor’, ‘challenge’, ‘inspire’ and ultimately help to ‘deliver’ real change. It would be a small but powerful national investment that could lead the culture change that we need to see, and notably the process of up-skilling within local authorities that a move to a zone + site-specific design code model will require. More details on the original proposition were fleshed out in a second contribution from the original consortium led by the Place Alliance and published in *Towards a Design Quality Unit for England*. It sets out proposals for what the i) mission ii) tools of engagement and iii) modes of delivery of the new body might be (Place Alliance et al 2020b). Critically any new body should work to build capacity, commitment and capabilities within local government, and should not try to impose oven-ready solutions and approaches to the governance of design that may not be right locally or have local buy in.

See answer to Proposal 11 / Question 17 on creating a community design review panel (which members rotate) for creating design codes and advising on significant schemes. This community design review panel should work together with ‘chief officer for design and place-making’ or any equivalent role in a local authority, and with the professional design review panel on co-producing design codes and advising on significant schemes.

Finally, if such ‘chief officer for design and place-making’ is to be appointed by each local authority, it is important that they have strong sustainability skills and/or training in order to deliver not only ‘beautiful’ but also sustainable places. There is too little detail on how to design for sustainability in the White Paper.

Proposal 13: To further embed national leadership on delivering better places, we will consider how Homes England’s strategic objectives can give greater emphasis to delivering beautiful places.

19. Do you agree with our proposal to consider how design might be given greater emphasis in the strategic objectives for Homes England?

YES.

As one of the key national delivery organisations, Homes England should be charged with the delivery of high quality design outcomes as one of its core missions. As already argued, the added place value (economically, socially and as regards health and environmental outcomes) delivered by high quality place making is so profound that it is irresponsible to be making long-term investments in our housing and associated infrastructure without giving design quality due weight in decision-making.

Currently all Homes England's strategic priorities are economic and market based. A strategic priority focussed on the delivery of sustainable place quality would help to balance this, as would a new model for funding based on better balancing quantitative with qualitative concerns, notably urban design quality.

Informed by our research, it is our view that Homes England needs to include design quality as:

1. A measurable outcome of all their activities, assessed by an independent audit annually;
2. A specific outcome that is required and assessed in all grant and loans including HIF made by HE and use system of retentions to guarantee implementation
3. Place covenants and requirements in all land sales and leasing agreements concerning the quality for development but measurable standards with penalty clauses for non-compliance

Unfortunately Homes England has tended to rely on 'tick-box' approaches to design such as the use of Building for Life. Whilst cheap and easy to utilise, the *Housing Design Audit* revealed that should methods are amongst the less effective means of influencing design quality, and are no substitute for a proper injection of design creativity in processes of both determining development proposals and allocating funding.

A fast-track for beauty

Proposal 14: We intend to introduce a fast-track for beauty through changes to national policy and legislation, to incentivise and accelerate high quality development which reflects local character and preferences.

20. Do you agree with our proposals for implementing a fast-track for beauty?

NO.

Good design and timeliness rather than speed should be the objectives of the planning system. The latter implies short cuts are possible and as for beauty this will be a matter for future generations to decide on. Any replacement for the current system must, as a minimum, equal the best of European development as identified in the Urban Maestro project (www.urbanmaestro.org) which has been examining practices that deliver high quality design outcomes. Without fail, processes rely on:

1. Building a local culture of high-quality design over time.
2. Site-specific design processes which aim to maximise place value from each project.
3. Relentlessly ensuring that high quality design is delivered.

Whilst the first two proposals meet the criteria of putting in the time upfront in order to establish what is and is not acceptable, they have less to say about the third point monitoring of design

quality throughout the process. By themselves, local codes and pattern books are no guarantee of quality or a fast-track to beauty. To achieve that requires a move away from the standardised approaches of the past and towards one in which schemes are genuinely designed for sites in a manner that seeks to optimise place value through design outcomes that are sustainable, healthy, attractive, and socially equitable. That may or may not use ready-made typologies of homes, but always necessitates a careful site-specific and up-front design process of the sort that all the examples used to illustrate the White Paper will have benefitted from. Research has consistently shown that this up-front investment in design quality takes time – there is no way around that if we want high quality outcomes – although this is paid back in a more streamlined regulatory process further down the line.

This is the experience of the most sophisticated practices overseas. It is not cheaper, quicker or necessarily more efficient than the British system as it requires careful upfront planning and design for each site – typically by the public sector – and (crucially) before developers are able to gain consent. It is also carefully scrutinised throughout the delivery process with systems of peer review – in the UK design review – operated to systematically ensure that final design outcomes are as good as they can be. If we wish to prioritise quality, the recipe is clear: plan (or zone) + site-based code + design review.

The third proposal is particularly problematic. As this is an extension of permitted development rights it is essential that the lessons from the failures of previous policies extending these rights are learnt (Clifford et al., 2018, 2020). Thus, we welcome the acknowledgement that this requires further development. As we have stated elsewhere encouraging smaller development companies into the market is a laudable aim although it is not clear how the use of pattern books and pre-approved development types would do this in a way that would not also enable existing large developers with far greater access to finance, land and resources to dominate. Large housebuilders already use their own pattern books which they argue are ‘popular’ because they are extensively market tested and sell well. They are also capable of crude application to different local policy requirements by changing the bricks or render and through what is known in the industry as ‘gob ons’ (e.g. fake chimneys and porches). Yet they give rise to the sorts of homes that *A Housing Design Audit* (Place Alliance, 2020) identified as sub-optimal in terms of overall character and sense of place, and which local communities seem so adamantly opposed to. There is also a real risk that a problem identified in estate renewal (Crawford et al., 2014) - where regulation, finance and industry practices create perverse incentives to demolish buildings that could be more sustainably retrofitted and extended - could be recreated in the extension of permitted development rights in the name of ‘gentle densification’.

Effective stewardship and enhancement of our natural and historic environment

Proposal 15: We intend to amend the National Planning Policy Framework to ensure that it targets those areas where a reformed planning system can most effectively play a role in mitigating and adapting to climate change and maximising environmental benefits.

We would welcome a strengthening of the NPPF in regard to the vital and necessary role the planning system needs to play in maximising environmental benefit and mitigating and adapting to climate change.

In recent years, the evidence base linking better place design with place value (the basket of benefits or harms accompanying development) has grown strongly. The very large majority of evidence now points in the same broad direction, that better place quality adds value economically, socially and as regards health and environmental outcomes. Extensive, robust and powerful evidence from 271 international research studies was brought together in

www.place-value-wiki.net and summarised in the Place Alliance report: *Place Value & the Ladder of Place Quality* (Place Alliance, 2019).

As the title suggests, it is possible to envisage different qualities of place as sitting on a ladder. The ladder climbs from those place qualities that **should be avoided** at all costs when designing new development (because of their very likely negative health, social, economic and environmental impacts). There are eight of these:

- Car dependent and extensive forms of suburbanisation
- Relentlessly hard urban space (absence of local green space)
- Too much very local permeability (connectivity) in the pedestrian path network (e.g. unsurveilled back alleys and routes)
- The presence of rear parking courts and other poorly overlooked or segregated areas
- Poor maintenance / dilapidation (including of green spaces)
- A sense of overcrowding in residential buildings and estates
- Presence, in close proximity to homes of too many unhealthy food options
- Presence of roads with higher traffic loads and speeds, wider carriage-way widths, that are elevated, or which otherwise cause severance in the local built environment.

The ladder climbs to a limited number of qualities that are fundamental and which **should be required** in new development as a means to maximise place value through good urban design. There are six of these:

- Greenness in the built environment (notably the presence of trees and grass, water, and high-quality open space)
- A mix of uses (diversity of land uses within a neighbourhood)
- Low levels of vehicular traffic
- Pedestrian- and bicycle-friendly design (including well-connected, safe pedestrian paths and bicycle routes passing through a high- quality local public realm)
- Use of more compact patterns of development (that are well connected, less sprawling and not fragmented from other urban areas)
- Convenient connection to a public transport network

Strengthening the ability of the planning system to promote and require these fundamental qualities points the way to how the system can better promote environmental and climate change reduction/mitigation outcomes. The NPPF revision should take account of this, this alongside an appreciation of the importance of appropriate infrastructure provision (at all scales) to enable a transition to a zero-carbon future.

Proposal 16: We intend to design a quicker, simpler framework for assessing environmental impacts and enhancement opportunities, that speeds up the process while protecting and enhancing the most valuable and important habitats and species in England.

While Sustainability Appraisal (SA) and Strategic Environmental Assessment (SEA) have fulfilled much of the same role within the English planning system, these are quite distinct from Environmental Impact Assessment (EIA). SA and particularly SEA was designed to consider the aggregate effects that arises from multiple projects in an area and multiple impacts from different projects. While there may be overlap in terms of topics considered, EIAs on individual projects in no way substitute for a thorough consideration of these aggregate impacts. Indeed, there is evidence that the English planning system needs to be strengthened with regard to considering such aggregate impacts at local, regional and national level. For example, Rydin et al. (2018b) points to the lack of consideration of aggregate environmental and socio-economic impacts with regard to wind farms. Without consideration of the aggregate impacts of development across the country, the contribution to sustainable development will be severely impaired. We, therefore, strongly resist the abolition of these processes.

With regard to EIA, the lack of detail in the White Paper makes it difficult to comment on this proposal. EIA procedures can be time consuming but the quality of the data collected and the analysis of the impacts often depends on the resources and time devoted to the process. Of greater concern are the biases that can arise from the reliance on the developer to fund and commission the EIA and the lack of any independent commission (or equivalent) to assess the quality of environmental statements. It could also be argued that the reliance on the developer to commission the EIA in the context of an adversarial appeal system (and an NSIPs system that does not completely remove such adversarial elements) is too much documentation aimed at protecting developer-positions and insufficient emphasis on key impacts and uncertainties. The EIA system is also constrained by the reliance on the capacities of local authorities to critique and assess the quality of developer-led EIAs and of key environmental agencies to engage with planning processes and act as a critical voice. Yet, lack of resources often limits the ability of local authorities to draw on relevant expertise or public agencies to devote time to examination of specific cases. These issues are urgently in need of attention to ensure that environmental impacts are properly assessed and considered within planning decision-making. Please also see our points about regarding EIA and digitisation.

It is important to recognise that Brexit has a direct impact on EIA and SEA, both of which were first introduced following an EU directive. Much of the UK's environmental legislation flows from EU directives and it is still unclear what EU-level regulation and legislation may translate into in the post-Brexit era; this includes various amendments to air quality, transport, energy and water legislation, all areas of relevance to planning. A better understanding of this is vital to fully understanding what these proposals would or could mean.

We note that the White Paper flags-up the impending introduction of mandatory Biodiversity Net Gain (BNG) targets. The Environmental Bill currently with the Parliament seeks to impose a 10% BNG (i.e. 10% improvement in biodiversity value) on all new developments. Introducing BNG in planning is an immense opportunity but comes with a number of caveats. First, the way BNG is implemented needs a clear set of rules on how to apply the 10% gain; for example, achieving BNG by protecting and enhancing wetlands/ forest which is part of a development is different from achieving BNG within a development built on greenfield or in the city. Biodiversity enhancement can vary widely from providing green roofs, through sustainable urban drainage and street trees, to natural reserves adjacent to a development. Second, BNG needs to be 'real' on the ground and so, investing in monitoring is needed; also, why not be even more ambitious and aim for Environmental Net Gain as part of a re-framed EIA process? Third, big data is not necessarily useful for understanding the ever-changing nature of eco-systems; for example, a brownfield site now may not have biodiversity value but it will have in 10 years' time.

Proposal 17: Conserving and enhancing our historic buildings and areas in the 21st century

We welcome the restatement that historic buildings and areas are central to the government's vision for our society alongside sustainable development and environmental care. Local Plans have a clear role in heritage protection and give muscle to the statutory protections at national level. It is crucial that the concept of 'setting' is restated in Local Plans rather than being distilled into 'protected views' which seems to be implied. The setting of listed buildings is crucial to understand as a starting point in protection, and in negotiating appropriate solutions in historic buildings and areas. Protected views might be an element of that, but only one element. Experience in the management of protected views is not entirely positive, with these often being viewed as a static concept (rather than the idea that views are experienced in different ways) and indeed, these often being negotiated away in instances where development is deemed more important. It is particularly important that thought is given to how to manage the setting of historic buildings if Growth and Renewal areas with automatic development rights are introduced.

The move to recognising that the historic environment has huge potential to help the country meet our zero carbon goals and is to be welcomed. Much work has been done in recent years to demonstrate how that historic environment might be adapted sympathetically to meet this requirement. The two are not mutually exclusive concepts yet one must be cautious about looking at blanket solutions to this issue which ignore the significance of the heritage asset in question. Significant work has been done on 'Low Carbon Bath' and by the Bath Preservation Trust on this question which has produced a useful guide to approaching this complex issue (CSE, 2011).

The proposals around autonomy from listed building consents are vague and worrying. What is meant by routine works? The scope of what is routine varies by building and location. How does this relate to area-based conservation designations such as World Heritage Sites and Conservation Areas? Routine maintenance at an area level is hard to define. Architectural specialists are important members of the conservation community but what of others? Conservation Planners? Archaeologists? All have specialist knowledge that is used in conservation processes. Also, and finally, what are 'routine listed building consents'? Definition of routine here is fundamentally important. Would this be some sort of prior approval process, and if so, how would this work within the statutory requirements of the 1990 Act?

Proposal 18: To complement our planning reforms, we will facilitate ambitious improvements in the energy efficiency standards for buildings to help deliver our world-leading commitment to net-zero by 2050.

Energy-efficiency and net-zero carbon are key approaches in tackling the climate change crisis. The White Paper is primarily focussed on buildings i.e. 'net zero homes' and 'energy efficiency standards for buildings.' However, planning is about more than 'buildings' and can play an instrumental role in supporting de-carbonisation of transport and other urban systems (waste, food, heat, electricity, water etc). For example, the principles set up in the White Paper should lay the foundations to facilitate a transition to low-carbon transportation by: prioritising access to sustainable transportation/ public transport; where cars are allowed, provision should be made for transition to low carbon/ electric cars (i.e. provision of charging points); incentivising the use of pool cars etc. Moreover, energy-efficiency ambitions should be further developed along at least three lines:

1. energy standards need to be tightened up and made more stringent;
2. planning should incorporate carbon accounting for whole life cycle of a building or development (i.e. life cycle analysis); for example, life cycle analysis can be a requirement in the Future Homes Standard; and
3. local authorities should be put in charge of the Future Home Standard in order to be able to negotiate and set carbon requirements.

Pillar 3: planning for infrastructure and connected places

21. When new development happens in your area, what is your priority for what comes with it?

This question, as with Questions 1-4, are more suited to a survey of residents, than a national consultation on a Planning White Paper. In relation to this question, we would note that it is poorly framed in that it forces the respondent to prioritise one of these aspects over others, when the role of planning is to ensure a suitable balance between housing, retail, employment and other uses, that development is of high quality and that adequate infrastructure is provided to support that development and a minimum quality of life.

A consolidated Infrastructure Levy

Proposal 19: The Community Infrastructure Levy should be reformed to be charged as a fixed proportion of the development value above a threshold, with a mandatory nationally-set rate or rates and the current system of planning obligations abolished.

22(a). Should the government replace the Community Infrastructure Levy and Section 106 planning obligations with a new consolidated Infrastructure Levy, which is charged as a fixed proportion of development value above a set threshold?

YES.

At present much of the collection of CIL and S106 is based on local negotiation and viability tests. It is a cause of delay in the planning system. If there was a common system across the country, the level of development contribution collected could relate to the type of development and the local market for it. It would not require negotiation (nor should it be negotiable) and would be a fixed amount. To support this, there would need to be a national hypothecated equalisation (levelling up) fund for the distribution of S106 and CIL that is not retained by HM Treasury. Otherwise high value areas would retain and reinvest locally the lion's share of Levy proceeds: the opposite of levelling up.

If the Government wishes to achieve more land value capture then it could achieve this through a VAT-type system that provides contributions through the process of the optioning, purchase, development and sale of the site and properties that was supported by an integral clawback system (Morphet and Clifford, 2017, 2019).

Economic research has long advocated that a general tax on land value should be imposed. This would mean that, when land becomes more productive and its value rises, owners would pay more tax. It would improve the efficiency with which land is used, and the equity of how the benefit of land value uplifts are shared as well. Moreover, if such a tax existed then landowners (and developers) would have more reasons to develop land quickly. Recent research by the Urban Maestro project¹⁷ has reviewed different systems of land value capture around Europe and found that the present combination of S106 and CIL in the UK, as compared to mechanisms in Germany and Denmark, does not typically achieve the same level of financial resources and quality for social/affordable housing projects.

Land Value Tax may be politically unfeasible in the UK, therefore the proposed CIL would be the second (best) possibility. As long as the charge is simple and not open to costly challenges,

¹⁷ Urban Maestro, funded by the European Union Horizon 2020 research and innovation programme.

it would supply real resources for local government and public agencies investing in infrastructure. Estimates from Cheshire and Buyuklieva (2019) suggest that a tax of 20 per cent would bring in far more revenue than the combined value of S106 and CIL. It is expected that the tax would be 100 per cent capitalised into the price of the land, so the ultimate cost would be paid by the landowner. Research on impact fees suggests that this is what typically happens in the US.

Finally, although we support a new consolidated levy, it is important to note the wide variety of uses that S106 agreements are currently used in relation to beyond affordable housing and financial contributions, for example in relation to construction and final development management issues, for which suitable means of legal agreement would still seem to be needed.

22(b). Should the Infrastructure Levy rates be set nationally at a single rate, set nationally at an area-specific rate, or set locally?

NATIONALLY AT AN AREA SPECIFIC RATE.

Given the advantages of a discretionary system that enables contributions to infrastructure to be tailored to a specific development, site and its unique infrastructural needs are being removed, in favour of a more consistent and transparent approach we recommend the middle option. The evidence of the Community Infrastructure Levy (CIL) has been that it has been unevenly distributed across the country with some authorities more willing and more able to use it than others (MHCLG, 2018). The government's own review has also identified a reluctance to set higher levels of CIL at a local level (Peace et al., 2016) a risk which a national rate would remove. Likewise, it would also avoid Local Authorities engaging in a 'race to the bottom' competing for the same amount of development. However, given that the evidence of the CIL was that some areas have real concerns about viability, there are advantages in retaining some flexibility through an area-specific rate.

As others have observed, it is also important that revenues are spent on genuinely supporting local infrastructure and social housing, with revenues ring-fenced for community benefit to provide real incentives to encourage acceptance of new development. Charging at pre-set area specific-rates could be accompanied by a fixed proportion of revenues going into a centrally administered 'levelling-up' fund to provide additional support to more economically disadvantaged areas.

22(c). Should the Infrastructure Levy aim to capture the same amount of value overall, or more value, to support greater investment in infrastructure, affordable housing and local communities?

SAME AMOUNT OVERALL.

For political simplicity, introducing the new regime should probably aim to collect the same aggregate sum as the old arrangements on introduction. Because it is a percentage of Gross Development Value it is automatically index linked and the rate could readily be adjusted upwards in bearable increments. Double the current harvest could probably be obtained in the long-run if Paul Cheshire's estimates are right. This would be alongside additional investment in high-quality, sustainable design by developers.

22(d). Should we allow local authorities to borrow against the Infrastructure Levy, to support infrastructure delivery in their area?

YES, with reservations.

This would provide resources for local authorities to ensure that the required and funded infrastructure is provided at the appropriate time with the development. It would also provide some reassurance to communities and developers that the infrastructure was being provided at the same time. This is a significant issue for public confidence in development.

In implementing such a proposal, however, care must be taken over the transfer of risk from developers to local authorities since they stand to be saddled with the debts incurred to install infrastructure in the cases where developers become insolvent or, for whatever reason, suspend the development of their projects. The government should consult the Local Government Association on this matter and might, together, find a good compromise in which developers would make a Levy payment, perhaps 50%, on account at the start of development and the balance at the end.

Furthermore, there is a widespread appreciation that infrastructure projects, particularly the larger ones, consistently overpromise and under deliver (Flyvbjerg et al., 2003) which again shifts the risks onto local authorities. Given the wide range of capacities of local authorities steps have to be taken to ensure authorities undertaking this level of borrowing to fund infrastructure have the capacity to manage both the projects and their long term financing. As the link between development and infrastructure established with S.106 appears to be weaker under these proposals further care needs to be taken to ensure infrastructure funded through borrowing against infrastructure levy revenues is both necessary for and beneficial to new developments and the communities that live there.

Proposal 20: The scope of the Infrastructure Levy could be extended to capture changes of use through permitted development rights

23. Do you agree that the scope of the reformed Infrastructure Levy should capture changes of use through permitted development rights?

YES.

Change of uses can place differing burdens on local infrastructure. In the case of permitted development (PD) for changes of use to residential, there can clearly be additional pressure on local social and green infrastructure compared to when a building was, say, in commercial use. It is therefore important that the reformed Infrastructure Levy is able to capture and include such change of use, particularly as there is often a land value uplift associated with the granting of consent for change of use.

The Community Infrastructure Levy as it currently stands does, in principle, apply to changes of use through permitted development rights (see Bibby et al., 2018 pp.27-8 for a full discussion). However, there are two issues:

- A lack of a shared interpretation of the CIL regulations and their application to PD for change of use (Bibby et al., 2018); and
- An effective loophole, whereby developers are able to avoid their PD conversion being 'CIL liable' due to a clause in the regulations which specifies that the building must be vacant in order to be CIL liable. If the applicant can demonstrate that the building has been 'in use' for a period of six months during three years before the prior approval application, then the charge can be avoided. This introduces an incentive for the developer to target 'in-use' buildings for such conversions, which rather undermines the original intention of office-to-residential PDR to bring vacant office buildings back into use.

Our detailed report of the application of PD rights for office-to residential conversions between 2013-18 across five case study local authorities in England (Clifford et al., 2018) found that

these local authorities were generally not securing borough-level CIL through PD conversions. In 2020, we published a further piece of research commissioned by MHCLG, expanding the case study analysis to 11 urban and rural authorities across England. This research found that in six of the 11 case study authorities, some developer contributions (of any kind) were sought on either the PD scheme itself or a related planning application attached to the PD scheme. Looking at broader evidence across the whole of England, Lord et al. (2020) found that approximately one third of Residential Permitted Development schemes commenced in 2018/19 were liable for CIL charges, but these may include a zero charge. Their survey of English Local Planning Authorities further revealed that one quarter of CIL charging authorities (15/134 all responding authorities) indicated that they had charged one or more permitted developments with CIL over 2018/19.

In the five case study areas we studied in 2018, the quantum and pace of conversions across the areas was such that there would have been a significant impact on local infrastructure, particularly publicly funded transport, green and social infrastructure. In our study, taking a very low figure of costs per additional unit (developed by comparing various reports estimating the costs on infrastructure for projected housing growth), it was calculated the burden on these five LPAs alone to be £27.5m. Across the five LPAs, they may have lost out on £10.8m in planning gain and 1,667 affordable housing units from approved office-to-residential PD schemes. This was despite the very apparent profitability of office-to-residential conversions for developers, with several examples of prior approval leading to large uplifts in sale prices apparent in the case studies (90% in one example, over less than a one-year period). Numerous other reports have collected data on the lost opportunity to secure affordable housing under PD Rights (EGi, 2015, London Councils, 2015). In our study, we concluded that “Office-to-residential PD seems to have been a fiscal giveaway from the state to private real estate interests” (Clifford et al., 2018, p.93).

The effectiveness of any reform to the Infrastructure Levy in its application to PD is likely to be limited by geographical circumstances and the strength of local markets. It is acknowledged in our later research (Clifford et al, 2020) that only in the strongest markets is there existing evidence of permitted development being subject to CIL. Of the six LPAs (of 11) that secured any developer contributions on PD schemes, there was a general distinction between areas of high and low market demand. The London Borough of Richmond alone accounts for 48.5% of all developer contributions sought. When considered together with Waverley in the Surrey commuter belt and Crawley the aggregate total (£736,936) accounts for 85% of developer contributions sought. By contrast some LPAs in the North and Midlands have secured far less from the sites that have been considered. Derby, Manchester and Sunderland did not seek any developer contributions on the schemes in question. To a large extent this is explained by the fact that these are non-CIL charging authorities; (of the LPAs that were considered in depth for this research 7/11 (63%) were CIL charging authorities at the time that the research was undertaken). Although outside this general account there are some LPAs that do not conform exactly to the characterisation. Sandwell's challenging market circumstances did not prevent exactions totalling £100,665 - of which the majority (96%) has been paid promptly. Similarly, Enfield in North London saw contributions of only £5,634 despite its location in an area of high demand.

In terms of perspectives on further reform, a national survey of LPA officers (Lord et al., 2020) suggested that there is widespread support for considering the extension of Section 106 powers to cover PD rights: 73% of respondents agreed that if permitted developments had been submitted as a planning application it would have been liable for Section 106 planning obligations. Only 5% of LPA's disagreed with the statement.

In summary, although we agree with the principle of the statement, it must be noted that the provision already does exist, and that if the reformed Infrastructure Levy is to be effective, there would need to be (a) less ambiguity about the application of the Levy to PD by removing any loopholes related to vacancy and by having a levy apply in all parts of the country, not just some

CIL charging authorities (b) the removal of the incentive to redevelop buildings that are in-use, and c) ensuring, as per our answer to proposal 19 / question 22, greater financial support (for example in funding for infrastructure) in areas of lower market demand.

Proposal 21: The reformed Infrastructure Levy should deliver affordable housing provision

24(a). Do you agree that we should aim to secure at least the same amount of affordable housing under the Infrastructure Levy, and as much on-site affordable provision, as at present?

YES.

We should secure more affordable housing and research shows it is feasible. Given the ongoing affordability crisis and the systematic under supply of housing in places where people work and desire to live (as we know since the first Barker review of 2006) it is imperative that affordability is kept as a primary object.

Calculations by Cheshire and Buyuklieva (2019) show that if all existing charges, including Section 106 and CIL, were abolished but developers had to pay a 20 per cent charge on the sale price of all development, this would generate a very large flow of additional revenues (this could yield over time a total of £100 billion), thereby increasing resources for affordable housing.

24(b). Should affordable housing be secured as in-kind payment towards the Infrastructure Levy, or as a 'right to purchase' at discounted rates for local authorities?

NOT SURE.

There are bound to be disputes between developers and local authorities about the valuations of schemes and resources are squandered on professional and legal fees in resolving them. If the affordable housing quantum and mix is agreed in advance, there is much to be said for the local authority, a housing company, development corporation or other non-profit provider being the developer to ensure standards are met and subsequent maintenance considerations are incorporated in the designs. This should probably not apply to First Homes since those are not intended ever to be owned or managed by social housing organisations.

24(c). If an in-kind delivery approach is taken, should we mitigate against local authority overpayment risk?

YES.

In case of a developer delivering in-kind affordable housing that is not good value for money, the risk of getting bad quality for the 'price' of the infrastructure levy revenue (and possibly a top-up price paid by the local authority) falls on the local authority. Given this, it seems that the 'right to purchase' at discounted rates for local authorities may be a less risky mechanism than the 'in-kind' delivery approach: it is the benefit of market competition, if the delivery is below expectations the authority can decide not to purchase it. This, of course, would still be a suboptimal market outcome; that is why it is probably a good idea to have an experienced and capable development corporation that coordinates the supply of affordable housing across many developers .

24(d). If an in-kind delivery approach is taken, are there additional steps that would need to be taken to support affordable housing quality?

YES.

In research undertaken by UCL Bartlett School of Planning academics (Morphet and Clifford 2017, 2019) it was found that the quality of affordable housing provided through S106 was variable. There were many examples where housing associations would not take on this affordable housing and it has had to be taken on by the local authority. In some cases, in both housing associations and local authorities, there has had to be significant expenditure by the receiving organisation to put the properties into good order, sometimes taking over a year after hand-over.

All housing should be of appropriate standard and if this is the case then any affordable housing included in S106 agreements would be provided to the right quality. If this is not the case then it would require all housing that was part of S106 to be designed to appropriate quality standards and if this was not achieved by the developer, then the local authority should have the right to revert to a financial or land equivalent payment to the value that would allow an affordable home to be built.

Proposal 22: More freedom could be given to local authorities over how they spend the Infrastructure Levy

25. Should local authorities have fewer restrictions over how they spend the Infrastructure Levy?

NOT SURE.

As it is clear that any additional flexibility for local authorities comes after 'core infrastructure needs' are met, some relaxation of restrictions seems reasonable. We would certainly wish to avoid circumstances where overly rigid agreements result in situations where developers can claw back unspent contributions for community infrastructure or where pressure is placed on local authorities to spend these within a limited timescale.

We would want to ensure that 'core infrastructure' is defined in a way that prevents local authorities downplaying infrastructure requirements of new developments in order to secure a greater proportion of the total Infrastructure Levy for other projects. Likewise any spending on facilities that are not directly for new developments must clearly be of benefit to the community as a whole (for example, using contributions for sports facilities in a location that was not clearly accessible for residents of new developments would not be acceptable). However, one area where we cannot support this level of flexibility is the suggestion that Infrastructure Levy funds are used to reduce council tax. This would be a short-term, short-sighted measure that would reward (some might even say bribe) existing householders at the expense of both new members of the community and future generations. It is, in our view, something no responsible local authority should even consider.

25(a). If yes, should an affordable housing 'ring-fence' be developed

YES.

If the government proposes to maintain affordable housing funding from development contributions then it should be ring fenced. The overall amount of affordable housing provided in any area falls short of the evidence of local need so it must be ring-fenced as a priority.

We would, however, propose that really all affordable housing should be funded by the state through the use of subsidies to ensure that adequate levels of homes are provided of the type and in the location needed. We would also argue from our research that Local Plan housing site allocations should include type and tenure requirements that match local housing need and that the Use Class Order for housing should be reformed to include all housing types and to ensure that these allocations are subject to compliance sanctions if not provided.

Delivering change

Proposal 23: As we develop our final proposals for this new planning system, we will develop a comprehensive resources and skills strategy for the planning sector to support the implementation of our reforms

Whatever the reforms proposed, the resourcing of their implementation, including resources for central government to produce timely and useful guidance and for local government officers to have the time, space and training to upskill, is vital. This is often overlooked, leading to implementation failure, as discussed in Clifford (2013). We would therefore support the development of a comprehensive resources and skills strategy.

Ensuring adequate resources are available to local authorities to have a proactive and responsive planning system, working with all stakeholders to undertake effective placemaking and secure public benefit, is essential. It has been lacking for years, and some of the issues identified in the White Paper are really dealing with the consequences of inadequate funding under austerity.

We would not, however, agree that “if a new approach to development contributions is implemented, a small proportion of the income should be earmarked to local planning authorities to cover their overall planning costs” (page 57). There is already a shortfall in funding for local infrastructure and affordable housing (particularly social housing). Diverting some development contributions from this to fund planning services detracts from those priorities, but also risks a further entrenching of the view that planning is merely a transactional licensing regime for the benefit of developers rather than something seeking to achieve a wider public interest. Planning services should be funded, adequately, through general taxation.

Proposal 24: We will seek to strengthen enforcement powers and sanctions

Enforcement has often been seen as a ‘Cinderella’ of the planning system and has been particularly squeezed under funding cuts already mentioned. To have integrity, the system needs to have effective planning enforcement. This would be assisted by strengthened enforcement powers and sanctions available, which are currently often ludicrously small compared to the financial value of development. We would therefore generally support these proposals, with the caveat in relation to the mention of ‘encampments’ that there continues to be adequate equalities and human rights protections.

Equalities impacts

26. Do you have any views on the potential impact of the proposals raised in this consultation on people with protected characteristics as defined in section 149 of the Equality Act 2010?

Yes. The protected characteristics are age, disability, gender reassignment, race, religion or belief, sex, sexual orientation, marriage and civil partnership and pregnancy and maternity. The proposals in this White Paper do not consider the housing, infrastructure and digital needs of

those with these characteristics and appears to be blind to them. There are no specific proposals that will support those who are older or younger or have a disability in better meeting their housing needs where we know from research that these groups have restricted access to housing and mobility. Proposals around more reliance on technology for planning services and engagement ignore those impacted by the 'digital divide' in our society. Other groups with protected characteristics are also not specifically considered and it is our view that a specific assessment of this White Paper that takes into account evidence of the needs of these groups should be undertaken and the proposals taken forward from the White Paper should not be permitted unless they are modified to consider the needs of all members of these groups.

Conclusions

The current planning system is far from perfect. There is a lack of necessary strategic planning and serious attempts to use planning to tackle regional inequality; sustainability is not taken seriously enough, particularly in relation to climate change; the system doesn't embrace modern technology sufficiently, nor handle data (including geographical data) well enough; and design quality is often woefully inadequate. Some – but not all – of these issues are picked-up on by the White Paper, and some of the multitude of proposals in the document are welcome.

We are, however, concerned by the central proposals in the White Paper, which would act to reduce the opportunity for democratic engagement in the future of our built and natural environments. Active democracy is central to planning for development. It is foundational to the comprehensive system introduced in 1947. An absence of democracy during the first 20 years of that system prompted an urgent review and the subsequent Skeffington Report. Since then, governments have been praised or lambasted for their commitment, or lack of, to active democracy. In 2009, the Conservative Party committed itself to correcting the 'democratic deficit' in planning for development. Its *Open Source Planning* Green Paper accused the Labour Party of a centralising tendency, side-lining local democracy through its over-reliance on targets and undemocratic regional strategies. It claimed that the Labour Party wasn't listening and that those most affected by development, at a local and neighbourhood level, should have more say in planning for that development. Once in government, Greg Clarke dismissed the idea of NIMBYs blocking development out of personal interest (amenity and house prices) and claimed that all resistance to development was a result of inadequate democracy - too few opportunities to shape local plans and development outcomes. The Localism Act and Neighbourhood Planning sought to provide those opportunities.

Roll forward 10 years and we see a very different approach in the *Planning for the Future* White Paper. It is now claimed that democracy (through planning committee scrutiny of applications) is a barrier to development and needs to be removed, but no evidence is provided of the impact site-by-site scrutiny has on planning for development, in terms of speed and quality of decision making. The Barker Review of Housing Supply (Barker, 2004) tied a claimed 'delivery gap' in local output to the 'parochialism' of planning committees: that view was used to support the strengthening of regional strategies and the integration of housing targets in local plans. It attempted to force authorities to 'build, build, build'. But it turned out that the rate of building was not dependent on the positions taken by planning committees, which continued to approve plan-compliant schemes, but with broader economic factors and the priorities of housebuilders. People just vetoing change does not have to be the norm.

The same is true today and it is frustrating that the government appears deaf to all the evidence. Planning committees approve the vast majority of planning applications but not all units approved are built, for reasons unrelated to local democracy. Research has shown that alliances of homeowners opposing new housing can affect the pace of development, most often in Conservative-controlled districts (Coehlo et al., 2017) but there is no evidence of a broader democratic impact on supply. Planning restriction (in the form of Green Belts etc) does corral and contain value, which is reflected in higher land and house prices, but it does so in order to promote sustainable development in the form of higher densities, walkability and protection of green spaces.

Although some of the negative anti-planning rhetoric of recent years is thankfully absent, no positive sense of the purpose of planning is given in the White Paper, nor why it can be important to restrict and ration land, and why democracy is vital given the profound impact of development on communities and people's lives. Proactive planning can help reduce inequality, improve wellbeing, improve environmental quality, and further us towards tackling climate change and become more sustainable. Many of these wider potentials are underplayed or absent in a White Paper which takes a fundamentally reductionist view of planning as little more

than a housing licensing system. As well as seeking to improve development outcomes, planning should also provide a space to debate and seek consensus over the future of our villages, towns and cities. Moves to make plan making more accessible, through the use of technology, are welcome (so long as those without access to digital technologies are not left disenfranchised). But greater accessibility to information and active democracy are not the same.

Democracy can be served by a mediated process of state-of-the-art participation. We would like to see that running parallel with planning and permissioning processes, but the government wants to front load and move to automatic, in-plan permission. Democracy is a process not an event, but it should still meet the benchmarks of being comprehensive, inclusive, meaningful and ultimately ensuring that planning remains a public service and not a means of simply licensing housing development, on the back of codes and protocols that could be made without proper local consent and agreement and without adequate safeguards.

We also remain unconvinced by the premise that our discretionary system is particularly problematic. There are advantages and disadvantages to both discretionary and zoning-based planning systems; (the White Paper does not call the shift to automatic permission 'zoning', but green-lighting compliant development is zoning). Better quality outcomes are possible under both systems, but are often more related to factors such as the resourcing of the system and associated powers, such as over local authority land assembly, than *per se* which type of planning system is being adopted. The White Paper fails to provide evidence that the discretionary system in England is in itself a problem, and ignores the variety of systems seen internationally.

Whilst it does have disadvantages, the current approach in England does have some benefits. There is flexibility to take an informed and holistic decision on a particular scheme, allowing potential for innovative design and responses to the complexities inherent in urban systems which a plan-maker – however good – may never have anticipated. This has often been looked upon positively by those from outside the UK undertaking international comparisons of planning systems. Further, we elect local members who can scrutinise local planning applications against the principles set out in the local plan. There is an expectation of democracy in plan making and in development management. This is what democracy in planning means.

If we are to move towards a more automatic system, then a much more sophisticated approach than that proposed in the White Paper would be vital. More zoning-based planning systems have detailed ordinances, codes and overlays to try and deal with the complexities of the built and natural environment and offer sufficient safeguards for society. These often include comprehensive standards for housing. In order to avoid the problems associated with permitted development rights for change of use to residential seen so extensively over the last seven years – a strong warning for what a more automatic permission system could deliver us – fixed standards will need to be introduced to ensure that housing, developed by-right, is good enough for people to live in. Under our current discretionary system, there has been some debate about the value of standards, as seen around the nationally described space standards in 2015, but if we adopt the White Paper proposals for more permitted development, for automatic consent in Growth and Renewal areas, then such standards must become a prerequisite for the proposed system and would need to be far more sophisticated and detailed than anything seen to date in the United Kingdom.

Furthermore, whilst in theory a zoning-based system absolutely could work in England, the fact is such an approach wasn't introduced in 1947. Whatever the merits or not of a more as-of-right system, there is also the simple point that major change is exceptionally disruptive and very hard to get right. It seems doubtful to us that the implementation costs of such radical reform would be worth it, remembering that government consistently fails to adequately resource reform and underestimates how long it takes fully to put into practice, and the huge amount of

additional work that would be required to make this work properly. Gains could more easily be made by improving our current system, without radically changing its core principles.

There are opportunities from having a more proactive, better resourced planning system which takes design and sustainability (including climate change and social justice) more seriously, and helps deliver better places in all parts of the country and for all of society. Looking beyond a few positive proposals, the White Paper as a whole does not seem to us likely to lead to a positive change agenda which would deliver this. Instead, it risks undermining local democracy whilst failing to deliver on its central premise of solving the housing crisis.

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