

## ▶ London Councils written evidence

### ▶ Public Bill Committee scrutiny of Levelling Up and Regeneration Bill

## About London Councils

London Councils is a cross-party representative body for all 32 London boroughs and the City of London Corporation. It is a cross party organisation that works on behalf of all its member authorities regardless of political persuasion. Our members have a direct interest in the Committee's scrutiny of this Bill from their perspective as planning authorities, housing authorities and democratically elected Councils responsible for the well-being of local communities and economies across the capital.

## Introduction

London Councils welcomes the opportunity to submit written evidence to the Committee in respect of this crucial Bill, which has serious implications for the Planning system, tackling inequality, supporting recovery from the pandemic and responding to climate change.

The Levelling Up and Regeneration Bill (the Bill), which was first laid before Parliament on 11 May 2022, includes substantial Planning reforms, sets out the framework for Levelling-Up Missions and introduces a range of devolution measures. The passage of the Bill is expected to take the rest of 2022 and potentially part of 2023.

## Background

In August 2020, the government published its White Paper 'Planning for the Future' (the Planning White Paper), which proposed replacing the existing town planning system in England, introduced in 1947. The Planning White Paper consultation closed in October 2020, with more than 44,000 responses. There was substantial opposition to the radical reforms put forward in the Planning White Paper and the subsequent Planning Bill, included in the Queen's Speech 2021, did not proceed.

The Levelling-Up White Paper, which was published on 2 February 2022, analysed the UK's economic and social geography and set out 12 missions to address the inequalities identified.

The Levelling Up and Regeneration Bill brings together proposals from the Levelling-Up White Paper and the Planning White Paper. Whilst some of the most radical reforms in the Planning White Paper have not been taken forward, the Bill has retained some Planning White Paper proposals, including the Infrastructure Levy and the simplification of Local Plans, but also brought in fresh changes, such as new National Development Management Policies and a diminished role for the London Plan.

## Summary of Key Strategic Issues

London Councils has identified the following key strategic issues arising from the Bill:

### PLANNING ISSUES

1. The abandonment of the most radical White Paper proposals for a 'zoning' style system with automatic planning approvals and restricted resident consultation, is welcomed.
2. We also welcome moves away from the implication in the White Paper that the Planning system is the principal barrier to housing delivery, which it clearly is not, as illustrated by the record number of unimplemented planning permissions in London.
3. The retention of proposals for an Infrastructure Levy remains a major concern, given the risk this presents in terms of reduced affordable housing delivery, including the supply of new low carbon homes, and increased financial exposure for boroughs.
4. The retention of proposals for simplified Local Plans also remains a major concern, as this would weaken Local Planning Authorities, constrain the scope of Local Plans and impose an unrealistic 30-month deadline for their production. These changes would, for example, undermine boroughs' local ambition and innovation in tackling climate change.
5. The proposals for a new National Planning Policy Framework (NPPF) combined with the introduction of new National Development Management Policies (NDMPs) represents greater centralisation of Planning policy nationally and the disenfranchisement of local communities, contrary to the implied objective of the Bill to devolve powers locally. Whilst a new NPPF could include strengthened climate change and environmental objectives, as previously committed to by the government, this is currently uncertain.
6. Proposals in the Bill to diminish the scope and prominence of the London Plan risks severely undermining the ability of London government to meet the development needs of the capital, including our collective response to climate change and our successes in delivering affordable housing.
7. Whilst the government proposals to increase Planning fees are long overdue and broadly welcomed, it will be important to establish whether the proposed increases fully cover the cost of local Planning services, which should be conducted in full consultation with boroughs. Any expectations of "better performance" can only be met if planning services are adequately resourced.
8. We note provisions in the Bill which seek to increase build out, improve compulsory purchase arrangements and introduce new urban Development Corporations, which may potentially be positive, subject to more detailed information being provided allowing a better understanding of their impact.
9. We also note provisions in the Bill which seek to improve environmental outcomes, however, we need to better understand the proposed Environmental Outcome Reports and how the accompanying outcome targets will be set and delivered, as this is currently unclear.
10. The absence of provisions to end or curtail Permitted Development Rights is a major concern, because Permitted Development Rights do not require the provision of affordable housing and have led to the creation of many low-quality homes in unsuitable locations, with inadequate amenity space and poor energy efficiency (e.g. overheating in homes created from former office blocks).

#### LEVELLING UP AND DEVOLUTION ISSUES

11. In many of the 12 levelling up missions proposed, such as serious crime and home ownership, London performs worse than other UK regions.
12. Depending on the matrix used, the missions may overlook the large variations within the capital in areas such as pay, employment and productivity. London Councils contends that the missions should be measured by appropriate social and economic indices, which would better identify these inequalities within London.

13. London Councils continues to make the case for a fair allocation of resources and powers to enable the capital to deliver the missions' objectives. Given the many inequalities and different level of infrastructure across London, the capital needs support to level up too.
14. Inclusive economic growth across all towns and cities is vital to achieving the levelling up missions. Growth in London creates demand for goods and services from other parts of the UK and is often the 'shop window' for goods and services produced across Britain, it is therefore essential for London to continue competing successfully as a global city.
15. The devolution proposals are focused towards areas outside London, with an emphasis on Mayoral authorities, and do not recognise the unique governance arrangements in London. London Councils continues to make the case for further devolution to London and that boroughs should have a central role in this, alongside the Mayor.
16. The emphasis in the levelling up missions on home ownership overlooks the capital's continued need for the provision of social housing, given the city's affordability issues and acute levels of homelessness.
17. The Planning and Levelling Up provisions in the Bill are not effectively coordinated. The Planning changes represent a missed opportunity to maintain and strengthen the Planning system in England, which would then be better placed to support delivery of the 12 missions.

## Main Planning changes

### (a) Infrastructure Levy

The Infrastructure Levy comprises a new, non-negotiable, locally set levy, paid by developers to help meet the cost of infrastructure needed to support new schemes. The Infrastructure Levy would largely replace the current section 106 and Community Infrastructure Levy (CIL) arrangements for delivering infrastructure, including affordable housing, although the Bill retains section 106 for large sites. The Mayoral Community Infrastructure Levy (MCIL) is also retained. The Bill introduces new Infrastructure Delivery Statements, to agree the sub-division of funding and responsibility for delivery between the parties, and seeks to improve delivery from statutory consultees, by allowing them to charge.

As expressed in our response to the Planning White Paper consultation ([copy attached](#)), London Councils continues to have major concerns about the Infrastructure Levy. Cutting back section 106 and CIL curtails a key mechanism for the delivery of affordable housing and the Infrastructure Levy process risks transferring financial exposure from developers to the boroughs.

On 18 July 2022, London Councils emailed members of the parliamentary Committee scrutinising the Bill ([example copy attached](#)), to express our particular concerns over the Infrastructure Levy provisions and our support for various amendments to the Bill, which seek to mitigate these provisions and protect the supply of affordable housing.

### (b) Simplified Local Plans

The Bill expands upon provisions in the Planning White Paper which seek to simplify Local Plans, by removing the need for policies in the National Planning Policy Framework (NPPF) to be replicated in Local Plans; introducing 'Gateway' checks of Local Plans prior to examination and setting a 30-month deadline for the production of Local Plans.

London Councils continues to have major concerns regarding the simplification of Local Plans, as this would result in Local Plans being standardised and constrained, rather than fully reflecting local circumstances, and

weaken the role of Local Planning Authorities. We are also concerned about the unrealistic 30-month deadline being proposed.

### **(c) National Centralisation of Planning Policy**

The development of a new NPPF, together with the introduction of new national Development Management rules is proposed.

London Councils is concerned that these changes represent a national centralisation of Planning policy, which facilitates the restriction of Local Plans and appears to run contrary to the implied objective of the Bill to devolve powers locally.

### **(d) London Plan**

The Bill includes provisions which seek to restrict the length and scope of the London Plan, including the guidance which supports its implementation.

London Councils is concerned that these changes would diminish the scope and status of the London Plan, weakening the capital's strategic development framework, with adverse consequences for London government in meeting the development needs of the capital, including our collective response to climate change and the delivery of affordable housing.

### **(e) Planning Fees**

Increases to Planning fees of 35% on major schemes and 25% on other schemes have been put forward by the government, provided this leads to better performance. Whilst increased Planning fees are long overdue and broadly welcomed, it will be important to establish whether the proposed increases fully cover the cost of local Planning services.

Since 2010, the combined effects of reduced government grant and mounting pressures in children's and adult social care have squeezed funding for most other services. Funding for planning and development services has been cut by more than 60%, a situation exacerbated by planning fees not being set at a level that enables full cost recovery. Effectively, the responsibility to cover the financial gap in processing applications has fallen to local taxpayers to cover. The priority should be to enable planning fees to recover the full costs of the service to mitigate the cost burden on local residents.

Against this background, London Councils continues to make the case for the following:

- (i) increased Planning fees, which fully cover the cost of providing local planning services, which in our view represents a reasonable prerequisite for any expectation of 'better performance'.
- (ii) increased Planning fees should also be applied to any ongoing Permitted Development Rights, for which the fees should match those for a full planning application, given the similar levels of work involved
- (iii) Boroughs should generally be given access to more revenue raising powers, including the ability to set and retain Planning fees locally.

### **(f) Climate Change and Environmental Objectives**

The independent Climate Change Committee report to Parliament 'Progress in Reducing Emissions' (June 2022) recommends that "Net Zero and climate resilience should be embedded within the planning reforms that are expected as part of the Levelling Up and Regeneration Bill. These reforms should aim to ensure that key

supporting documents (such as the National Planning Policy Framework) make clear the priority that should be placed on sustainability objectives and how these interact with other requirements.”

In its response to the consultation outcome on the most recent changes to the National Planning Policy Framework (July 2021), the government stated “The government is considering how the planning system can further support our commitment to reaching net zero.....It is our intention to do a fuller review of the Framework to ensure it contributes to climate change mitigation/adaptation as far as possible ...”

London Councils understands that the government’s proposed National Planning Policy Framework (NPPF) Prospectus has been delayed, but trusts that, when this is published for consultation, the new NPPF will fulfil both the government’s previous commitments and take full account of the related recommendations in the Climate Change Committee’s report.

We note the provisions in the Bill for new Environmental Outcome Reports (EORs), which seek to improve environmental outcomes, however, we need further information to better understand the proposed EORs and how the accompanying outcome targets will be set and delivered, as this is currently unclear.

### **(g) Other Planning Provisions**

The Bill includes a wide range of other provisions, including:

- provisions which seek to increase build out rates e.g. new Commencement Notices
- new urban Development Corporations
- reforming the compulsory purchase process, including compensation

Whilst some provisions appear to potentially be positive, for example, in supporting increased housing delivery, further information which would allow the effective scrutiny of the impact of these provisions is required.

The absence of provisions to end or curtail Permitted Development Rights is a major concern, because Permitted Development Rights do not require the provision of affordable housing and have led to the creation of many low-quality homes in unsuitable locations, with inadequate amenity space and poor energy efficiency (e.g. overheating in homes created from former office blocks).

## **Main Levelling Up and Devolution Provisions**

### **(a) Levelling Up Missions**

The Bill sets out the framework for Levelling up Missions, allowing for the setting and monitoring of levelling up targets and milestones. The Levelling Up White Paper, included the following 12 Missions to level up the UK:

1. By 2030, pay, employment and productivity will have risen in every area of the UK, with each containing a globally competitive city, with the gap between the top performing and other areas closing.
2. By 2030, domestic public investment in R&D outside the Greater Southeast will increase by at least 40 per cent and at least one third over the Spending Review period, with that additional government funding seeking to leverage at least twice as much private sector investment over the long term to stimulate innovation and productivity growth.
3. By 2030, local public transport connectivity across the country will be significantly closer to the standards of London, with improved services, simpler fares and integrated ticketing.
4. By 2030, the UK will have nationwide gigabit-capable broadband and 4G coverage, with 5G coverage for the majority of the population.

5. By 2030, the number of primary school children achieving the expected standard in reading, writing and maths will have significantly increased. In England, this will mean 90 per cent of children will achieve the expected standard, and the percentage of children meeting the expected standard in the worst performing areas will have increased by over a third.
6. By 2030, the number of people successfully completing high-quality skills training will have significantly increased in every area of the UK. In England, this will lead to 200,000 more people successfully completing high-quality skills training annually, driven by 80,000 more people completing courses in the lowest skilled areas.
7. By 2030, the gap in Healthy Life Expectancy (HLE) between local areas where it is highest and lowest will have narrowed, and by 2035 HLE will rise by 5 years.
8. By 2030, well-being will have improved in every area of the UK, with the gap between top performing and other areas closing.
9. By 2030, pride in place, such as people's satisfaction with their town centre and engagement in local culture and community, will have risen in every area of the UK, with the gap between the top performing and other areas closing.
10. By 2030, renters will have a secure path to ownership with the number of first-time buyers increasing in all areas; and the government's ambition is for the number of non-decent rented homes to have fallen by 50 per cent, with the biggest improvements in the lowest performing areas.
11. By 2030, homicide, serious violence, and neighbourhood crime will have fallen, focused on the worst-affected areas.
12. By 2030, every part of England that wants one will have a devolution deal with powers at or approaching the highest level of devolution and a simplified, long-term funding settlement.

In many of these missions, such as serious crimes and home ownership, as well as overarching objectives such as wellbeing and satisfaction, London performs worse than other UK regions.

Depending on the matrix used, the missions may overlook the large variations within the capital in areas such as pay, employment and productivity. London Councils continues to make the argument for the missions to be measured by appropriate social and economic indices.

While the Levelling Up White Paper signals reforms to the private rented sector, which will have relevance in London, the overall emphasis on home ownership in the missions overlooks the capital's continued need for the provision of social housing, given the city's affordability issues and acute levels of homelessness.

London Councils will continue to make the case for a fair allocation of resources and powers to enable the capital to deliver the missions' objectives. As the London Finance Commission pointed out in 2017, "despite its apparent affluence, London has the largest concentration of deprived communities and households in the UK. At present, the centralised nature of UK government makes it virtually impossible for the Mayor and the boroughs to bring about the required structural change to address the types of inequalities Londoners face, from housing to household income." The Covid-19 pandemic and the current cost-of-living crisis have thrown these structural inequalities into sharp relief and made the need to address them more urgent. Given the many inequalities and different level of infrastructure across London, the capital needs support to level up too.

London Councils recognises that inclusive economic growth across all towns and cities is vital to achieving the levelling up missions. The economies of the UK's cities, towns and regions are inextricably linked, with growth in London creating demand for goods and services from other parts of the UK. London is often the 'shop window' for goods and services produced across Britain. As such, London needs to continue to be able to compete as a globally competitive city.

Collaboration between towns and cities is important. We have seen the value of this on the work around Cities Commission for Climate Investment, in which we are a partner alongside Core Cities UK and the Connected Places Catapult, to accelerate common investible solutions to the climate crisis. We should consider collaborative approaches and sharing what works around support for other key infrastructure needs across our towns and cities.

### **(a) Devolution Proposals**

The government's devolution proposals are focused towards areas outside London, with an emphasis on Mayoral authorities. These proposals do not recognise the unique governance arrangements in London and assume that the default level of devolution in London should be to the Mayor. However, this is not always appropriate for the funding involved and does not allow for decisions to be taken as close to communities as possible. London Councils continues to make the case for further devolution to London and that boroughs should have a central role in this, alongside the Mayor.

### **(a) Lack of coordination between the Planning and Levelling Up Provisions in the Bill**

In our view, the Planning changes in the Bill represent a missed opportunity to maintain and strengthen the Planning system in England, which would then be better placed to play a more significant role in supporting the 12 missions, for example, by the delivery of infrastructure to support growth, productivity and employment; the delivery of transport and connectivity; the delivery of new housing; the delivery of low carbon development and the planned revitalisation of town centres and a sense of place.

## **Analysis**

Whilst the Planning changes in the Bill do not include the most radical proposals in the Planning White Paper, which is welcomed, the Bill still includes substantial proposals from the Planning White Paper which are of major concern, in particular the Infrastructure Levy and the simplification of Local Plans. New changes in the Bill include greater centralisation of Planning policy nationally, which is also not supported because, in London Councils view, policy should be determined locally as far as possible, to reflect the needs of individual boroughs and their communities. Also, provisions to diminish the London Plan will severely weaken the ability of London government to meet the development needs of the capital. The proposed increase in Planning fees is broadly welcomed, subject to establishing whether this would fully meet the cost of local Planning services as a prerequisite for an exploration with boroughs of the 'better performance' condition. A number of other provisions appear to be potentially positive, subject to further information and understanding of their impact.

The government's levelling-up and devolution proposals do not reflect the need for levelling up within London and do not provide London government with the powers and resources to tackle inequalities in the capital. It is important to ensure that London is not subject to 'levelling-down', but rather that the need for levelling-up within London is fully recognised, so that poverty, homelessness and deprivation in the capital can be alleviated. The economic role played by London in supporting other parts of the UK is also not adequately recognised and the need to maintain the capital's success as a global city is underplayed. In the light of these shortcomings, it is essential for the Bill to be amended to allow increased devolution to London, with devolution to the boroughs alongside the Mayor, and to provide the necessary funding for the 12 missions to be achieved within London and, thereby, across the country as a whole.

Finally, it is important to highlight the negative interplay between the Planning and Levelling Up provisions in the Bill, for example, the Planning changes include measures which will weaken the ability of London government to manage development in the capital, rather than maintaining and strengthening the existing Planning system, which would be crucial in delivering the 12 missions.





## ▶ MHCLG consultation on White Paper: Planning for the Future

### ▶ London Councils Consultation Response

#### Introduction

London Councils represents London's 32 borough councils and the City of London Corporation. It is a cross party organisation that works on behalf of all its member authorities regardless of political persuasion. We welcome the opportunity to respond to MHCLG's consultation on the White Paper: 'Planning for the Future' published on 6 August 2020.

The White Paper proposes radical reforms to town planning in England (replacing the existing system introduced in 1947). The replacement planning system proposed in the White Paper involves greater centralisation at a national level and reduces the role of councils. The reforms seek to streamline the planning system, mainly to attempt to increase housing delivery via new nationally defined targets. The proposed changes are transformative, moving away from councils determining individual planning applications to a 'zoning' style system where planning approvals are automatic in 'growth' and 'renewal' areas, provided development complies with standards set within prescribed, more restricted Local Plans and associated design codes. While we support the overarching principles, the proposed changes raise important concerns and pose a number of risks.

As the proposals centralize control nationally with a predominantly one size fits all approach, they would undermine the role of councils in managing development in their areas. The changes would also limit resident engagement, particularly in the consideration of individual development proposals. The three prescribed 'growth', 'renewal' and 'protected' zones would be very difficult to apply in a complex urban setting like London, where there is potential for adjoining streets or even buildings to be differently zoned.

We are concerned that the proposed mechanism for distributing a nationally set housing target between authorities would be prescriptive and not reflect local needs. Also, replacing the current arrangements for achieving affordable housing (through section 106 and CIL) with a new Infrastructure Levy risks reduced affordable housing delivery, exacerbating the homelessness crisis in London. Also, under the current section 106 and CIL arrangements, London generates more funding than anywhere else in the country, so by taking a national rather than local view of planning, London stands to lose funding to other areas, depleting the essential infrastructure needed to support high levels of development in the capital. In addition to the national setting of levy rates, the proposed Infrastructure Levy raises other concerns, including payment on occupation rather than at permission stage, which poses increased financial risk for councils.

The White Paper justifies the proposed reforms by attributing lack of housing delivery to the planning system. We consider that the obstacle to housing delivery is not the planning system, but failure to build out unimplemented planning permissions and lack of government funding for affordable housing. We would also note that, despite these challenges, London remains strongly committed to housing delivery, achieving increased completions over

recent years. We are concerned that the White Paper proposals would narrow the focus of Local Plans to housing, crowding out other important issues, such as the delivery of low carbon development to meet national and borough level climate change targets.

The proposed changes would involve the development of new prescribed Local Plans and detailed design codes to support the new zoning arrangements, which would require substantial new burdens funding.

There are a number of positive proposals in the White Paper which London Councils would support or warrant further exploration including:

- Simplification of s106 and CIL and the removal or downgrading of viability appraisals in the planning process
- Some of digital reforms which offer improved access to the planning process for residents, provided existing methods of resident involvement are retained for those without digital access.

However, these changes could be easily introduced without the wholesale reform of the planning system.

The White Paper also omits changes which would improve the current system, notably providing councils with powers to ensure unimplemented permissions are built out. London's planning system is not the barrier to development portrayed in the White Paper. In fact, the 2018/19 pipeline of permitted homes in London is 305,289, the highest ever recorded. If all these permitted homes were actually built, they would deliver over half of London's new 10 year housing target. According to figures from the Home Builders Federation, 69,300 new homes were granted planning permission in London in the year to September 2019, which is higher than the annual target of 52,000 homes in the 'Intend to Publish' version of the London Plan. It is widely recognised that a lack of planning permissions is not the brake on housing delivery. Indeed, the Letwin Review, commissioned under a previous Chancellor, explained the challenges of delivery after planning permission is granted and outlined recommendations for diversifying the housing sector and completing more homes. The White Paper's contention that reducing local planning powers would lead to a substantial increase in housebuilding is not supported by evidence. We would therefore encourage the government to revisit the Letwin Review, re-analyse the reasons for insufficient housing delivery and reflect on whether the scale and nature of the White Paper reforms are warranted.

We are concerned that there is insufficient recognition of the role of planning in providing a stable platform for investment by developers and landowners and that the uncertainty that such proposals introduce, particularly in a period of wider challenge to the economy, could have an adverse impact on the trajectory of development before 2024.

The White Paper leaves a significant amount of detail still to be determined. We look forward to responding therefore to future consultation on key details. This includes policies such as the Infrastructure Levy rate and arrangements; the creation of housing targets and the implications for failing to meet these locally; a replacement for the Duty to Cooperate; environmental improvement mechanisms; a replacement for building sustainability appraisals; the creation of a new expert body to 'monitor and challenge' design standards; and proposals to increase build out rates. What role the Mayor of London will have within the new system is also an outstanding question, as well as the scale at which plan making will occur in London and the wider South East to meet local needs.

The White Paper omits changes which would improve the existing system. This includes providing councils with powers which can require developers to build out the planning permissions they have been granted. Such powers would provide an early, substantial boost to housebuilding.

We are aware that our concerns about these far-reaching proposals are shared across wider local government and among many housing and planning experts.

## Key messages

### 1. **The White Paper proposals would increase national control over local planning issues**

The White Paper proposals focus on national direction via for example, prescribed development policies and Infrastructure Levy rates, as well as a diminution in the role of local planning authorities. We have serious concerns as to what this would mean in practice for the standard of development brought forward and what limitations would exist on such developments. While councils would be required to develop design codes, it is not clear what mechanisms would be in place to ensure compliance prior to development, particularly in designated 'growth' areas. We are concerned that imposing a centralised policy that removes local tailoring and local checks and balances could lead to inappropriate development. We are also concerned that the proposed nationally prescribed 'growth', 'renewal' and 'protection' areas may be less relevant in a dense, complex urban environment like London, where there is potential for adjoining streets, or even individual buildings, to be allocated to different zones.

### 2. **Local democratic accountability and resident engagement would be undermined by the proposed changes.**

The White Paper has the potential to downgrade the role of local councillors and reduce resident consultation in respect of applications for individual sites. We are concerned that many residents will find it difficult to engage in the development of Local Plans and design codes, as envisaged by the White Paper, but will feel disenfranchised in respect of being able to influence individual planning applications.

### 3. **Cutting the requirement for planning permission in 'growth' and 'renewal' areas would represent an expanded planning free-for-all, even when compared to the recent extension of Permitted Development Rights.**

The proposal to move to zoning arrangements, with more availability of automatic planning approvals in 'growth' and 'renewal' areas and fewer opportunities for local oversight, makes it much harder for councils to manage development in their areas, for example making sure the right sort of homes are built to the right standard in the right places. This could exacerbate some of the problems that councils have experienced with the extension of Permitted Development Rights and the proliferation of lower quality development in unsuitable locations and posing additional challenges for future residents and local communities

### 4. **The impact of the proposed mechanism for distributing a nationally set housing target between authorities in reflecting local needs.**

We are very concerned about the White Paper proposals for allocating housing targets. The White Paper proposals envisage a national process for allocating targets to boroughs taking into account a range of prescribed factors, rather than being generated locally to reflect and help meet local needs. Given this

reliance on a national prescribed policy, more detail is needed on how local circumstances would be reflected in development. In particular, detailed policies on affordable housing targets, tenure splits and dwelling mixes would need to be established.

**5. The abolition of section 106 and CIL risks a major reduction in affordable housing delivery and housing standards.**

There are serious concerns over proposals in the White Paper to remove Section 106 agreements and the Community Infrastructure Levy. Councils already have very few mechanisms for ensuring affordable housing targets are met. The abolition of these existing measures risks putting boroughs in an even weaker position, thereby exacerbating the housing crisis in London. Whilst reforms which provide greater certainty in the development process may potentially be helpful, any changes to S106 need clear, robust mechanisms in place which guarantee that at least the same amount of affordable housing can be secured. The White Paper Infrastructure Levy (IL) proposals as set out currently do not give confidence that such a test can be passed. Under the current section 106 and CIL arrangements, London generates more funding than anywhere else in the country, so by taking a national rather than local view of planning, London stands to lose funding to other areas, depleting the essential infrastructure needed to support the high levels of development in the capital. We are also concerned about the wide range of activity that the new IL could be expected to fund, as well as the potential crowding out of projects if the new arrangement cannot deliver the necessary funding. Some of the IL items may be better funded centrally, with developer contributions focused on affordable housing and ensuring low carbon development. There is also a risk of moving payment of the new Infrastructure Levy to the occupation stage when councils have borrowed against it, with levy payments potentially not forthcoming should viability reduce below a threshold. This arrangement effectively transfers risk from developers to financially hard-pressed councils.

**6. The role of the planning system in housing delivery**

There is significant challenge to the implication in the White Paper that the planning system is the principal barrier to development. The 2018/19 pipeline of permitted homes in London is 305,289, the highest ever recorded. If all these permitted homes were actually built, they would deliver over half of London's new 10 year housing target. According to figures from the Home Builders Federation, 69,300 new homes were granted planning permission in London in the year to September 2019, which is higher than the annual target of 52,000 homes in the 'Intend to Publish' version of the London Plan. The Letwin Review, explained the challenges of delivery after planning permission is granted and outlined recommendations for diversifying the housing sector and completing more homes. The White Paper's contention that reducing local planning powers would lead to a substantial increase in housebuilding is not supported by current evidence. We would therefore encourage the government to revisit the Letwin Review, re-analyse the reasons for insufficient housing delivery and reflect on whether the scale and nature of the White Paper reforms are warranted.

**7. The impact of the White Paper proposals on other issues, for example environmental concerns.**

Whilst London Councils strongly supports increased housing delivery, particularly affordable housing, we are concerned that the narrower focus of Local Plans as envisaged by the White Paper would crowd out

other issues important to boroughs and relevant to the wider role the planning system plays in balancing competing demands in places. This includes a wide range of social, economic and environmental issues, including in particular policies to fulfil local climate change targets. London boroughs have been at the forefront of declaring climate emergencies and putting in place planning policies to deliver low carbon development. There is a concern that the proposals, insofar as they limit councils' ability to influence individual development proposals, will affect the degree to which low carbon targets can be met and may constrain those boroughs that wish to set more ambitious goals locally in this regard.

**8. Increased costs and new burdens on councils flowing from the White Paper.**

The proposals do imply some significant new burdens on councils, such as the need to develop new Local Plans and design codes, potentially masterplans for larger sites and new lists of heritage assets. A key question to probe going forward will be what level of new burdens funding may be available to councils to support this work. The government envisages that councils will have time freed to focus more on the enforcement of planning and building regulations (in addition to an undefined proposal to establish a new centre of expertise for design within Homes England), however these are not necessarily comparable disciplines. This is particularly in relation to building regulations, where there are painfully few qualified officers and significant capacity pressures.

**9. The risk to investment and development at a critical time**

The government's ambition is for reform to be introduced by the end of this Parliament, in December 2024. It is proposed that councils would have 30-months to adopt their new Local Plans reflecting the planned legislation (unless their existing Plan was adopted within the past three-years, in which case a 42-month timeframe is proposed). This is seen as ambitious by the sector, particularly given the need to develop new nationally defined policies through a revised NPPF. We are concerned that there is insufficient recognition of the role of planning in providing a stable platform for investment by developers, and landowners and that the uncertainty that such proposals introduce, particularly in a period of wider challenge to the economy, could have an adverse impact on the trajectory of development before 2024.

## Responses to Consultation Questions

**Question 1: What three words do you associate most with the planning system in England?**

**Response to Question 1:**

N/A – this is a local government stakeholder response

**Question 2: Do you get involved with planning decisions in your local area?**

**[Yes / No]**

**Response to Question 2:**

This question is directed to local people. However, we have provided comments below related to resident and community involvement with planning decisions, to which local government is central.

London Councils represents the 32 London boroughs and the City of London Corporation who are all Local Planning Authorities responsible for making planning decisions in their areas.

The White Paper would establish a significant democratic deficit in relation to planning, through downgrading the role of local councillors, limiting resident consultation and streamlining applications for individual sites. We are concerned that residents will find it difficult to engage in the development of Local Plans and design codes, as envisaged by the government, and will feel disenfranchised in respect of individual planning applications. This disenfranchisement would be mostly likely in the 'growth' and 'renewal' areas, rather than in 'protected' areas, where it appears the current arrangements for resident engagement on individual applications for planning permission would be maintained. This two tier approach to the determination of individual development proposals has important equalities implications, as disadvantaged groups are likely to disproportionately reside in 'growth' and 'renewal' areas, whereas more affluent households are likely to disproportionately reside in 'protected' areas, such as conservation areas and higher value locations near protected green spaces.

#### **Question 2(a): If no, why not?**

***[Don't know how to / It takes too long / It's too complicated / I don't care / Other – please specify]***

#### **Response to Question 2(a):**

As above, we have provided comments below related to resident and community involvement with planning decisions.

We consider that residents are most likely to get involved with individual planning applications which directly affect their home, local street or neighbourhood, rather than the development of their Local Plan and associated documents, like design codes. Consequently, whilst we would support greater resident involvement in Local Plan formulation, we are concerned that resident involvement in individual planning decisions is being minimised by the government's proposals, particularly in 'growth' and 'renewal' areas. We consider that this approach could erode public confidence in the planning system, particularly in 'growth' and 'renewal' areas, which would outweigh the justification of 'streamlining' the planning decision making process presented in the White Paper.

#### **Question 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?**

***[Social media / Online news / Newspaper / By post / Other – please specify]***

#### **Response to Question 3:**

Again, we have provided comments below related to resident and community involvement with planning decisions.

The digital reforms proposed in the White Paper could offer improved access to the planning process for some residents which we would support, subject to existing methods of resident involvement being retained and enhanced for those without digital access. This has important equalities implications for disadvantaged households and communities who are less likely to have digital technology and knowledge of how to use it. We would also note that the digital changes proposed in the White Paper could be easily introduced without wholesale reform of the planning system.

**Question 4: What are your top three priorities for planning in your local area?**

***[Building homes for young people / building homes for the homeless / Protection of green spaces / The environment, biodiversity and action on climate change / Increasing the affordability of housing / The design of new homes and places / Supporting the high street / Supporting the local economy / More or better local infrastructure / Protection of existing heritage buildings or areas / Other – please specify]***

**Response to Question 4:**

Again, we have provided comments below related to resident and community involvement with planning decisions.

In our view, planning priorities are best decided locally and democratically at Local Authority level, following consultation and engagement with local communities. In this context, we consider that a negative impact of the White Paper proposals is that they would undermine the role of councils in managing development to meet the needs of their local areas. For example, it would be a retrograde step if the ability of London boroughs to ensure that new development includes affordable homes were undermined, exacerbating the homelessness crisis in the capital – a key concern of boroughs and Londoners. London has already experienced problems with the extension of Permitted Developments Rights (PDR) undermining the role of boroughs, creating lower-quality homes in unsuitable locations with no affordable requirement, and PDR now further extended from 1 September 2020. The White Paper changes risk magnifying these problems.

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

***[Yes / No / Not sure. Please provide supporting statement.]***

**Response to Question 5:**

No. We do not support the government's proposals which would transform the role of Local Plans within the planning system. The White Paper proposals suggest that a primary role of Local Plans (with associated documents, such as design codes) would be to set the standards which development proposals in 'growth' and 'renewal' areas would need to meet in order to receive an automatic permission (In the case of 'growth' areas this would be an automatic outline approval and in 'renewal' areas, an automatic presumption in favour of development). The greater centralisation of policy making nationally, would also limit the scope for Local Plans to deviate from national prescription in order to meet local priorities and promote local ambitions. The document length and timescales for the production of a Local Plan are also curtailed in the government's proposals.

We consider that the government has underestimated the work involved in establishing the policy framework required within a Local Plan to administer the new 'zoning' style system being proposed i.e. the government's 'growth', 'renewal' and 'protected' areas. Consequently, the government has proposed an unrealistic timeframe of 30 months for Local Plan formulation, when borough planners with experience of zoning systems in other countries have suggested that this would be insufficient. The government proposals appear to be based on an unrealistic expectation that it would be possible to cut back the time needed to decide individual development proposals via the use of automatic permissions whilst, at the same time, cutting back on the time needed to prepare the complex guidance needed to operate such a system. This similarly applies to government suggestions that less planners would be required to operate a 'zoning' style system, when in our view the proposed changes imply that additional resources and new burdens funding would be required. Additionally, experience from abroad suggests that developers would regularly submit development proposals which do not conform to the standards set for the proposed 'growth' and 'renewal' areas, resulting in complex negotiations and the processing of a full planning application.

The White Paper proposals are heavily focused on increasing housing delivery. We are therefore concerned that housing could become the main focus of Local Plans, crowding out other important local issues, for example, social, economic and environmental concerns, including policies to fulfil local climate change targets. Whilst London Councils strongly supports increased housing delivery, particularly affordable housing, we are concerned that the scope of Local Plans is being limited and narrowed, diminishing the importance of other issues important to boroughs and relevant to the wider role the planning system plays in balancing competing demands.

We consider that boroughs would face substantially increased costs in managing the changes envisaged in the White Paper. The government claims that councils will be "freed from many planning obligations" through the reforms. However, rather than freeing up officer time, the proposals imply significant new burdens, including the need to develop new Local Plans and design codes described above, and potentially masterplans for larger sites and new lists of heritage assets. A key question will be what level of new burdens funding would need to be made available to councils to support this work.

The government envisages that councils will have time freed to focus more on the enforcement of planning and building regulations (in addition to an undefined proposal to establish a new centre of expertise for design within Homes England), however these are not necessarily comparable disciplines. This is particularly in relation to building regulations, where there are painfully few qualified officers and significant capacity pressures.

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

***[Yes / No / Not sure. Please provide supporting statement.]***

**Response to Question 6:**



No. As set out in our response to question 5 above, we do not support the government's proposals for Local Plans and consider that the proposals for greater centralisation with more nationally set policies are too prescriptive, thereby restricting boroughs in setting local policies which best meet the needs of their areas.

**Question 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?**

***[Yes / No / Not sure. Please provide supporting statement.]***

**Response to Question 7(a):**

There are a number of areas within the White Paper where we consider the government has provided insufficient information on which to comment. The government's proposals for a consolidated test of 'sustainable development' fall in this category. Therefore, we would ask the government to provide more clarification of its proposals in this area, particularly how establishing the proposed single statutory 'sustainable development test' would align with replacement of the current test of soundness and deletion of the Duty to Cooperate.

This issue is of high importance given the priority attached to sustainable development by London boroughs, a priority we share with government.

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

**Response to Question 7(b):**

This is another area within the White Paper where we consider the government has provided insufficient information on which to comment. The government's proposals do not provide sufficient information on a replacement for the 'Duty to Cooperate' which it proposes to abolish. However, we would reflect that the government's separate proposals for a new standard method for assessing housing need ('the standard method') would, according to the calculations by Lichfield's (see link: <https://lichfields.uk/grow-renew-protect-planning-for-the-future/how-many-homes-the-new-standard-method/>) generate an unrealistic housing target of 93,500 homes per annum for London, raising the question of how unmet need would be met in the absence of a Duty to Cooperate.

In respect of wider strategic issues, we would note that other areas where the White Paper has provided insufficient information include what role it is envisaged the Mayor of London will have within the new system, as well as the scale at which plan making will occur in London and the wider South East to meet local needs.

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

***[Yes / No / Not sure. Please provide supporting statement.]***

**Response to Question 8(a):**

No. We are very concerned about the White Paper proposals for allocating housing targets. The White Paper proposals envisage a national process for allocating targets to boroughs taking into account a range of prescribed factors, rather than being generated locally to reflect and help meet local needs. Given this reliance on a national prescribed policy, more detail is needed on how local circumstances would be reflected in development. In particular, detailed policies on affordable housing targets, tenure splits and dwelling mixes would need to be established.

We are concerned that the White Paper proposals contain insufficient information on how the local housing targets would be calculated and the degree to which this process would rely upon the proposed new standard method for assessing housing need ('the standard method') included in the previous consultation on 'Changes to the current planning system' which closed on 1 October 2020. In our response to that consultation, we expressed serious concerns over the new standard method – our immediate primary concern being the unrealistic annual target of 93,500 homes (161% increase) generated by Lichfield's analysis as compared to the reduced London Plan target of 52,000 homes per annum. It is important to note that these concerns do not detract from our strong ongoing commitment to housing delivery in London, as reflected by increased completions in recent years.

**Question 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 / No / Not sure. Please provide supporting statement.]***

**Response to Question 8(b):**

No, this is too simplistic. We are concerned about the White Paper proposals for assessing the quantity of development to be accommodated in a local authority area. For example, the proposed standard method for establishing the 'housing requirement' for a particular local authority applies a nationally generated target, rather than a target produced locally to meet needs in that area, as described in our response to question 8(a) above. We are also concerned about the lack of clarity over how the new standard method for assessing housing need would be relied upon – again this covered in our response to question 8(a). As regards the proposed indicators of the quantity of development to be accommodated, we do not support the approach being proposed and do not consider that the use of indicators to adjust the targets will make this approach acceptable.

**Question 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?**

***[Yes / No / Not sure. Please provide supporting statement.]***

**Response to Question 9(a):**

No. The White Paper proposals represent a significant centralisation of control, with greater focus on national direction, for example prescribed development policies and Infrastructure Levy rates, and a paring back of local planning authorities to a high-level role designating land uses and developing design codes. We have serious

concerns as to what this would mean in practice for the standard of development brought forward and what limitations would exist on such developments. While councils would be required to develop design codes, it is not clear what mechanisms would be in place to ensure compliance prior to development, particularly in designated 'growth' areas. We are concerned that imposing a one-size fits all, centralised policy that removes local checks and balances would lead to inappropriate development. We are also concerned that, whilst the nationally prescribed 'growth', 'renewal' and 'protection' areas could theoretically be applied outside London to create meaningful zones, it is difficult to see how this would work in a dense, complex urban environment like London, where the patchwork of individual buildings in a locality would need to be allocated to different zones.

Cutting the requirement for planning permission in 'growth' and 'renewal' areas would represent an expanded planning free-for-all, even when compared to the recent extension of Permitted Development Rights. The proposal to move to zoning arrangements, with more availability of automatic planning approvals in 'growth' and 'renewal' areas and fewer opportunities for local oversight, makes it much harder for councils to manage development in their areas, for example making sure the right sort of homes are built to the right standard in the right places. This could exacerbate some of the problems that councils have experienced with the extension of Permitted Development Rights and the proliferation of lower quality development in unsuitable locations and posing additional challenges for future residents and local communities

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

***[Yes / No / Not sure. Please provide supporting statement.]***

**Response to Question 9(b):**

No. We consider that the proposals for consent arrangements in 'Renewal' areas would weaken local accountability and oversight of planning decisions, as described in our response to question 9(a) above. We consider that maintaining current arrangements for deciding planning applications in 'protected' areas whilst automatic permissions apply in 'growth' and 'renewal' areas is problematic, as this effectively creates a two tier system with equalities implications for communities in different parts of a borough, as fully described in our response to question 26 below.

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

***[Yes / No / Not sure. Please provide supporting statement.]***

**Response to Question 9(c):**

Not sure. The White Paper proposes that for exceptionally large sites, such as a new town, the government intends exploring whether a Development Consent Order under the Nationally Significant Infrastructure Projects regime may be an appropriate route to secure the consents needed to overcome land assembly and planning challenges. As this is unlikely to apply in London, we think other stakeholders are better placed to comment.

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

***[Yes / No / Not sure. Please provide supporting statement.]***

**Response to Question 10:**

No. We consider that whilst the government's proposals aim to make decision-making faster and more certain, this would only be achieved under these proposals by undermining local democratic control of planning decisions, limiting resident involvement in the planning process, risking poor standard development, and narrowing the scope of Local Plans. In addition, the greater centralisation of planning policy nationally, which these proposals involve, would further undermine the ability of local councils to manage development in their areas in consultation with local communities who, under current arrangements, are subject to the same planning decision making process and resident consultation arrangements irrespective of where they live in the area.

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

***[Yes / No / Not sure. Please provide supporting statement.]***

**Response to Question 11:**

Yes. We would support digital improvements including more accessible, web-based Local Plans provided that the planning system remains accessible to planning applicants, local residents and communities without access to digital technology or knowledge. This has equalities implications as set out in response to question 26.

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

***[Yes / No / Not sure. Please provide supporting statement.]***

**Response to Question 12:**

No. We consider that a 30 month timescale for the production of the new style Local Plans envisaged by the government is unrealistic, as explained in our response to question 5.

The government ambition is for its proposals to be in place by the end of this Parliament, in December 2024. This timetable for introducing the planned legislation is partly reliant on the proposal that councils would have 30-months to adopt their new Local Plans (unless their existing Plan was adopted within the past three-years, in which case a 42-month timeframe is proposed). This is seen as ambitious by the sector, given the need to also develop new nationally defined policies through a revised NPPF.

We are concerned that there is insufficient recognition of the role of planning in providing a stable platform for investment by developers and landowners and that the uncertainty that such proposals introduce, particularly in a period of wider challenge to the economy, could have an adverse impact on the trajectory of development before 2024.

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

***[Yes / No / Not sure. Please provide supporting statement.]***

**Response to Question 13(a):**

Not sure. We consider that Neighbourhood Plans have a role to play within the current system, but it is unclear how this would continue under the proposed new arrangements with nationally prescribed policies and a more restricted role for Local Plans.

**Question 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?**

**Response to Question 13(b):**

Please see our response to question 13(a) above.

**Question 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 / No / Not sure. Please provide supporting statement.]***

**Response to Question 14:**

Yes. We consider that the build-out of unimplemented planning permissions is a key obstacle to housing delivery. There is significant challenge to the implication in the White Paper that the planning system is the principal barrier to development. London's planning system is not the barrier to development portrayed in the White Paper. In fact, the 2018/19 pipeline of permitted homes in London is 305,289, the highest ever recorded. If all these permitted homes were actually built, they would deliver over half of London's new 10 year housing target. According to figures from the Home Builders Federation, 69,300 new homes were granted planning permission in London in the year to September 2019, which is higher than the annual target of 52,000 homes in the 'Intend to Publish' version of the London Plan. The Letwin Review explained the challenges of delivery after planning permission is granted and outlined recommendations for diversifying the housing sector and completing more homes. The White Paper's contention that reducing local planning powers would lead to a substantial increase in housebuilding is not supported by evidence. We would therefore encourage the government to revisit the Letwin Review, re-analyse the reasons for insufficient housing delivery and reflect on whether the scale and nature of the White Paper reforms are warranted.

The White Paper omits changes which would improve the existing system. The most obvious omission is providing councils with powers which can require developers to build out the planning permissions they have been granted. We would support such powers as they would provide an early, substantial boost to housebuilding, helping fulfil our housing delivery ambitions for London.

We consider that inadequate funding lies at the heart of housing delivery shortfalls. Funding a wider range of providers delivering a more diverse range of tenures, in particular more affordable housing provided by local councils, would increase build-out rates. We consider that this approach would accord with the Letwin review findings and, in response to the covid-19 crisis, would produce both more homes to meet increasing homelessness demand and more jobs to tackle increasing unemployment. Significant, large-scale housebuilding is expensive and over many years local government has not been funded as a major supplier of public housing. National house building completions since the second world war have only reached the levels currently sought by the government, when council house building has made up a substantial proportion of completions. London boroughs have been making the case for more government investment and a boost to council housebuilding, recently approaching the government for financial support to build 50,000 homes. London is experiencing the most severe homelessness crisis in the country due to a chronic shortage of genuinely affordable homes. The capital accounts for two-thirds of homelessness in England, with 58,000 homeless households placed in temporary accommodation by London boroughs. There are currently 243,000 London households on council housing waiting lists and boroughs collectively spend around £1 billion each year on homelessness services. Last year, the Mayor started more than 17,000 new affordable homes and boroughs started more than 3,300 new council homes, the highest of any year since 1983. Greater funding of new affordable homes by London boroughs would both increase this housing delivery and reduce homelessness, thereby supporting the government's planning and housing objectives.

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

***[Not sure or indifferent / Beautiful and/or well-designed / Ugly and/or poorly-designed / There hasn't been any / Other – please specify]***

**Response to Question 15:**

In their development of Local Plans, supplementary planning documents and design codes London boroughs consult widely with local communities and residents on a wide range of issues, including design quality and we support these arrangements continuing.

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

***[Less reliance on cars / More green and open spaces / Energy efficiency of new buildings / More trees / Other – please specify]***

**Response to Question 16:**

We are pleased the government considers sustainability to be at the heart of their proposals, and we share their ambitious carbon reduction targets. London boroughs have been at the forefront of declaring climate emergencies and putting in place planning policies to deliver low carbon development. London Councils itself has launched a Climate Programme to support boroughs in this area. For the government to achieve its sustainability ambitions, and embed them as part of these proposals, we would expect carbon reduction policies to feature far more prominently throughout. As it stands, we are concerned that the White Paper would weaken Local Plans and

boroughs' management of individual development proposals and the degree to which they meet low carbon targets. We are also concerned that nationally prescribed targets would hold back boroughs who have set more ambitious local goals.

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

***[Yes / No / Not sure. Please provide supporting statement.]***

**Response to Question 17:**

No. The government's proposals for design guides and codes form part of the wider proposal to introduce a 'zoning' style approach which we do not support. We anticipate that the improved design guides and codes required to support the operation of the government's 'zoning' style 'growth', 'renewal' and 'protected areas' would need to be tailored to each local authority area and to the distinct localities within each borough. This would be a time consuming and costly process which implies new burdens funding would be required, as described in our response to question 5.

**Question 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 / No / Not sure. Please provide supporting statement.]***

**Response to Question 18:**

There are a number of areas within the White Paper where we consider the government has provided insufficient information on which to comment. The government's proposals for the creation of a new expert body to 'monitor and challenge' design standards fall in this category. Therefore, we would ask the government to provide more clarification of its proposals in this area.

The proposal for a Chief Officer for design and place-making in each local authority also requires clarification, for example whether this equates to a Chief Planner in each authority, managing a single department, and whether funding would be made available by the government for these posts.

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

***[Yes / No / Not sure. Please provide supporting statement.]***

**Response to Question 19:**

We would support proposals which improve the design of new affordable homes, particularly in terms of better meeting the needs and aspirations of residents and achieving low carbon development to address climate change and fuel poverty.

**Question 20: Do you agree with our proposals for implementing a fast-track for beauty?  
[Yes / No / Not sure. Please provide supporting statement.]**

**Response to Question 20:**

Our concerns with this proposal relate to how the definition of beauty would be established taking into account different views of what constitutes 'beauty' and how this would be applied in different local authority settings. Also, a fast-track arrangement for one category of development proposals would put further pressure on hard-pressed planning authorities dealing with other proposals. This is, therefore, another area where the government's proposals imply that new burdens funding would be required.

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

***[More affordable housing / More or better infrastructure (such as transport, schools, health provision) / Design of new buildings / More shops and/or employment space / Green space / Don't know / Other – please specify]***

**Response to Question 21:**

As referred to in other responses, our main concern is that the process for determining the priorities for planning gain should be at a local authority level, taking into account community input.

**Question 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 / No / Not sure. Please provide supporting statement.]***

**Response to Question 22(a):**

No. There are serious concerns over proposals in the White Paper to remove Section 106 agreements and the Community Infrastructure Levy. Councils already have very few mechanisms for ensuring affordable housing targets are met. The abolition of these existing measures risks putting boroughs in an even weaker position, thereby exacerbating the housing crisis in London. Whilst reforms which provide greater certainty in the development process may potentially be helpful, any changes to S106 need clear, robust mechanisms in place which guarantee that at least the same amount of affordable housing can be secured. The White Paper Infrastructure Levy (IL) proposals as set out currently do not give confidence that such a test can be passed.

Under the current section 106 and CIL arrangements, London generates more funding than anywhere else in the country, so by taking a national rather than local view of planning, London stands to lose funding to other areas, depleting the essential infrastructure needed to support high levels of development in the capital. We are also concerned about the wide range of activity that the new IL could be expected to fund, and the potential crowding



out of projects if the new arrangement cannot deliver the necessary funding. Some of the IL items may be better funded centrally, with developer contributions focused on affordable housing and ensuring low carbon development. There is also a risk of moving payment of the new Infrastructure Levy to the occupation stage when councils have borrowed against it, with levy payments potentially not forthcoming should viability reduce below a threshold. This arrangement effectively transfers risk from developers to hard pressed councils.

**Question 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 a single rate / Nationally at an area-specific rate / Locally]***

**Response to Question 22(b):**

There are a number of areas within the White Paper where we consider the government has provided insufficient information, this includes clarity on the proposals for Infrastructure Levy rate setting. However, we would be concerned about a nationally set rate and would, in principle, prefer a locally set rate. It is important that local government is fully involved in developing any potential changes in this complex area.

**Question 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 / More value / Less value / Not sure. Please provide supporting statement.]***

**Response to Question 22(c):**

We recognise that developer contributions are not being maximised under the current arrangements, partly due to viability assessments, with affordable housing and other community benefits not being fully realised as a result. However, we are not convinced that the proposed Infrastructure Levy will improve the situation. On the contrary, we consider that it puts at risk what is already being achieved via the existing s106 and CIL arrangements. We would also note that CIL has taken a number of years to adjust and refine. Therefore, it is important to not underestimate the complexities of change in this area.

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

***[Yes / No / Not sure. Please provide supporting statement.]***

**Response to Question 22(d):**

We note the proposal to obtain Infrastructure Levy payments at occupation stage, on the basis this would potentially provide more certainty over the amounts payable. However, it should not be forgotten that under current arrangements any discrepancy between developer contributions agreed in advance and an increased amount

payable at occupation (due to increased sales values for example) can be recovered through claw-back arrangements. If the Infrastructure Levy were to be introduced with payment on occupation, it may be appropriate to provide councils with the option of borrowing. However, there is clearly a risk to councils in this situation that the levy payments they have borrowed against are not forthcoming. We are concerned that the proposed arrangements for a new Infrastructure Levy effectively transfer risk from developers to hard pressed councils.

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

***[Yes / No / Not sure. Please provide supporting statement.]***

**Response to Question 23:**

Yes. We are strongly opposed to residential Permitted Development Rights and consider that they should be subject to an affordable housing requirement and other planning obligations. Therefore, should the proposed Infrastructure Levy proceed, we would support this being applied to PDR in principle, but would wish to comment further on the outputs, particularly in terms of affordable homes and housing standards.

**Question 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 / No / Not sure. Please provide supporting statement.]***

**Response to Question 24(a):**

Not sure. We consider that an **aim** to secure at least the same amount of affordable housing under the proposed Infrastructure Levy, and as much on-site affordable provision, as at present is too weak. In our view, this would need to be a guaranteed commitment with failsafe mechanisms in place before we could consider supporting the proposed changes. We are also concerned that the government's current policy direction is reducing the delivery of affordable housing, in particular sub-market rented housing, as evidenced by the recent extension of PDR with no affordable housing requirement, together with the government's separate new proposals for 'First Homes' (which would displace other more affordable tenures) and temporarily increasing the site threshold for affordable housing from 10 units to 40 or 50 units.

**Question 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?**

***[Yes / No / Not sure. Please provide supporting statement.]***

**Response to Question 24(b):**

As noted above, this is further area within the White Paper where we consider the government has provided insufficient information, this includes insufficient clarity on the proposals for affordable housing to be secured as in-kind payment towards the Infrastructure Levy rate and the 'right to purchase' proposal. From the information

provided, we would be concerned that these proposals transfer financial risk to councils and involve additional work for councils in both managing this risk and ensuring that housing standards are maintained.

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

***[Yes / No / Not sure. Please provide supporting statement.]***

**Response to Question 24(c):**

Please see our response to question 24(b) above. As described above, we are concerned that the in-kind delivery approach further increases the financial risk for councils. These risks would need to be fully mitigated.

**Question 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 / No / Not sure. Please provide supporting statement.]***

**Response to Question 24(d):**

Please see our responses to questions 22(a), 24 (a) and 24(b) above.

**Question 25: Should local authorities have fewer restrictions over how they spend the Infrastructure Levy?**

***[Yes / No / Not sure. Please provide supporting statement.]***

**Response to Question 25:**

Not sure. We are concerned about the wide range of activity that the new Infrastructure Levy could be expected to fund, and the potential crowding out of projects if the new arrangement cannot deliver the necessary funding. Some of the Infrastructure Levy items may be better funded centrally, with developer contributions focused on affordable housing and ensuring low carbon development.

**Question 25(a): If yes, should an affordable housing 'ring-fence' be developed?**

***[Yes / No / Not sure. Please provide supporting statement.]***

**Response to Question 25(a):**

We consider that affordable housing needs to be protected and at least current levels of delivery guaranteed under any changes.

**Question 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?****Response to Question 26:**

We are concerned that proposals in this consultation will have a negative impact on people with protected characteristics as defined in section 149 of the Equality Act 2010.

*Affordable housing*

The proposal to abolish section 106 and CIL risks significantly reducing the delivery of affordable housing, in particular sub-market rented housing, with a negative impact on the disadvantaged groups who disproportionately require such accommodation. We are very concerned that the proposals for a replacement Infrastructure Levy do not guarantee at least the same amount affordable housing as currently being delivered via section 106 and CIL. These proposals would compound a group of other government measures/proposals which also reduce the delivery of affordable housing, specifically sub-market rented housing, including:

- the extension of Permitted Development Rights with no affordable housing requirement from 1 September 2020
- proposals which stipulate that 'First Homes' would take up the first 25% of the affordable housing requirement on a site, displacing other affordable housing tenures including sub-market rented housing (as proposed in MHCLG consultation 'Changes to the current planning system' which closed on 1 October 2020)
- proposals to temporarily increase the small sites threshold (below which developers do not need to contribute to affordable housing) from 10 units to up to 40 or 50 units, in order to support SME builders (as proposed in MHCLG consultation 'Changes to the current planning system' which closed on 1 October 2020)

The over-representation of disadvantaged groups amongst homeless people and other lower income households is well established. Therefore, an Equalities Impact Assessment which compares the impact of the government's section 106 and CIL proposals with a 'no change' option would be appropriate. This assessment should also calculate the combined impact of the government's section 106 and CIL proposals plus the three other measures/proposals listed above. We suggest that BAME households, people with disabilities and other groups are likely to be significantly disadvantaged by all these changes.

*Resident and community involvement in planning decisions*

The White Paper proposals for 'growth' and 'renewal' areas would allow policy compliant developments to proceed without the need for planning permission and, consequently, with little or no opportunity for resident engagement on individual schemes in these areas. By contrast, it appears that planning permission and the associated resident engagement on individual schemes would continue as currently in 'protected' areas. We consider it likely that disadvantaged households and communities would disproportionately reside within 'growth' and 'renewal' areas with less opportunity to influence development nearby, whilst more affluent households and communities would disproportionately reside in 'protected' areas, such as conservation areas and higher value locations close to Metropolitan Open Land, Green Belt, parks and other green spaces, thereby benefitting from a greater say on development proposals which may affect them. This would risk compounding inequality and the disenfranchisement of disadvantaged groups. Therefore, an Equalities Impact Assessment which compares the impact of the government's proposals with maintaining the current system (the 'no change' option) would be appropriate.

### Digital reforms

The digital reforms proposed in the White Paper could offer improved access to the planning process for some residents which we would support, subject to existing methods of resident involvement being retained and enhanced for those without digital access. This has important equalities implications for disadvantaged households and communities who are less likely to have digital technology and knowledge of how to use it. We would also note that the digital changes proposed in the White Paper could be introduced without wholesale reform of the planning system.

## Conclusions

From our review of the proposals in this consultation we have reached the following conclusions:

- the proposals would centralize control nationally with a predominantly one size fits all approach, thereby undermining the role of councils in managing development in their areas.
- the proposed changes would undermine democratic accountability and limit resident engagement, particularly in the consideration of individual development proposals.
- the proposed 'growth', 'renewal' and 'protected' areas would be very difficult to apply in a complex urban setting like London.
- the proposed mechanism for distributing a nationally set housing target between authorities would be prescriptive and not reflect local needs.
- The proposals for replacing the current arrangements for achieving affordable housing (through section 106 and CIL) with a new Infrastructure Levy risks reduced affordable housing delivery, exacerbating the homelessness crisis in London. The proposed Infrastructure Levy raises other concerns, including the national setting of levy rates, the potential loss of funding from London to other areas and increased financial risk for councils.
- the White Paper justifies the proposed reforms by attributing lack of housing delivery to the planning system, but does not provide evidence to support this view. We consider that the obstacle to housing delivery is not the planning system, but failure to build out unimplemented planning permissions and lack of government funding for affordable housing.
- the proposals would narrow the focus of Local Plans to housing, crowding out other important issues, such as the delivery of low carbon development to meet borough climate change targets.
- the proposed changes would involve the development of new prescribed Local Plans and detailed design codes to support the new 'zoning' style arrangements, which would imply the need for substantial new burdens funding.
- The White Paper provides little or no information in a number of key areas. We consider that the limited number of positive proposals in the White Paper could be introduced without wholesale reform. The White Paper also omits changes which would improve the current system, notably providing councils with powers to ensure unimplemented permissions are built out.
- Importantly, we are concerned that there is insufficient recognition of the role of planning in providing a stable platform for investment by developers and landowners and that the uncertainty that such proposals introduce, particularly in a period of wider challenge to the economy, could have an adverse impact on the trajectory of development before 2024.

DRAFT

**From:** Amy Leppanen <Amy.Leppanen@londoncouncils.gov.uk>  
**Sent:** 18 July 2022 13:37  
**To:** KRUGER, Danny <danny.kruger.mp@parliament.uk>  
**Cc:** Jack Graves <Jack.Graves@londoncouncils.gov.uk>  
**Subject:** Levelling Up Bill - London Councils' support for Infrastructure Levy amendments

Dear Danny,

I'm contacting you regarding your membership of the Levelling Up and Regeneration Bill Committee.

The Bill will have significant implications for councils' work in a wide range of areas, including those covered by the 12 missions in the Bill, tackling wider inequality, and delivering planning policy in the capital.

London Councils, the cross-party group representing all 32 London boroughs and the City of London Corporation, has concerns about the substantial planning changes in the Bill, which in our view would:

- centralise planning policy nationally;
- restrict the scope of Local Plans;
- undermine the ability of London government to manage development in the capital and meet the needs of our communities.

We are most immediately concerned about the Infrastructure Levy, which puts the delivery of affordable housing at risk, a key mechanism in tackling homelessness, poverty and inequality in London. We would like to draw your attention to the following points:

- Our preferred approach would be for the Infrastructure Levy provisions to be dropped, in favour of improvements to the current system of section 106 agreements, which is successfully delivering increasing levels of affordable housing in London.

Taking the Infrastructure Levy provisions as presented in the Bill, we would strongly support:

- (1) Amendments to Schedule 11, paragraph 204G, which would set a requirement that the amount, size and tenure of affordable housing delivered must meet the level of locally identified need, at least matching existing delivery.
- (2) Amendments to Schedule 11, paragraph 204Z1, which would make clear that individual local authorities would be able to opt out of the Infrastructure Levy entirely and retain section 106 for the delivery of all affordable housing and infrastructure in their areas.

Having reviewed the Infrastructure Levy amendments currently submitted by Committee members, we have indicated below (in order of listing), the key amendments we would urge you to support, with a brief summary of why we feel the changes proposed are important:

<b>Amendment</b>	<b>Justification for support</b>
142	Application of the IL would become optional
143	Connects to 142 above
148	Prevents Secretary of State from directing IL proceeds to purposes other than infrastructure in the area of the development
155	Requires the setting of IL rates which meet affordable housing need specified in local development plan

151	Removes affordable housing from IL with the intention it would continue to be funded under section 106
156	Connects to 155
161	Seeks to ensure IL payments are made on implementation of a development or phase of development, as permitted by charging authority
166	Prevents IL regulations from making unspecified provisions about how section 106 powers are used, or not used
144	This amendment, which is consequential on 142, would allow charging authorities in England to continue applying Community Infrastructure Levy (CIL) if they wish.

Finally, we would reflect our overall concern that many planning changes in the Bill run counter to the expressed objectives of the Bill to devolve power and level up.

Please let me know if you would like any further information or if it would be helpful to discuss in more detail with London Councils' policy team.

Kind regards,  
Amy

**Amy Leppänen | Parliamentary Officer | tel: 020 7934 9759**  
London Councils | 59½ Southwark Street SE1 0AL

London Councils represents the 32 London boroughs and the City of London

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