

Westminster City Council response: 'Planning for the Future' white paper

Executive summary

Westminster City Council supports the principles and ambitions of the reforms proposed in the white paper. We want to see a planning system that builds more homes and promotes better and more beautiful development. Much of the detail is still to come and we want to work closely with MHCLG to shape this to make sure these reforms deliver for all parts of the UK.

Westminster is building and we want to build more

We support the strong focus that the white paper places on housing delivery. Through our new local plan and regeneration programme, the council has placed building new homes at the forefront of its ambitions. Our draft City Plan, which is currently under public examination, includes provision for over 20,000 new homes to be built by 2040, 35% of which will be affordable. Our regeneration programme will build 2,000 new affordable homes by 2023.

Crucially, in places like Westminster it is not the planning system that is constraining housing delivery but a range of other factors – from financing to land supply. We recently set out the details of these challenges in our proposal to MCLG for a local housing deal which – with government's support to overcome these barriers – will deliver approximately 4,500 new homes over the next 10 years, 60 per cent of which will be affordable. Using MHCLG's own methodology, our proposals will increase land values by approximately £0.5bn and will create 500 full-time equivalent jobs. We will also boost local economic activity by £115m and increase business rates and council tax receipts by £3m.

Zero carbon and supporting the economic recovery from Covid-19

Planning reforms also need to address the other challenges we face as a country. The proposals are largely silent on the role of planning in supporting the economic recovery from the Covid-19 pandemic. We would also like to also see more on sustainability and the role of planning helping to deliver the government's carbon reduction targets. Westminster City Council has committed to becoming carbon neutral by 2030 and for the whole city to follow suit by 2040 – ten years ahead of Government targets. The planning system needs to play a key role in this.

Local trust in the planning system

Most importantly of all, a reformed planning system must be trusted by the local communities it serves. We have worked closely with the city's amenity societies and neighbourhood forums to shape our response to the consultation. Both amenity societies

and neighbourhood forums make an invaluable contribution to planning across the city, providing comments on several thousand planning applications every year on behalf of local communities and actively shaping new development through local plans.

We want to support government achieve its ambitions

To make sure the proposed reforms are deliverable and achieve their intended goals, we want to work with the government to make sure:

- There is a cast-iron assurance that **conservation areas will automatically fall within the new protected zone**
- The role of **resident consultation at the planning application stage and of the planning committee safeguarded** in order to protect the vitally important role that our local communities play in shaping local planning decisions
- The proposed 'standard method' for assessing housing need to be looked at again so that **local housing numbers are realistic and deliverable**
- A nationally set tariff for the new Infrastructure Levy **does not reduce funding for our affordable housing programme.**

Below we answer the specific questions asked in the consultation. We would be happy to provide further detail and work with government as it develops its response to the consultation.

Questions

1. *What three words do you associate most with the planning system in England?*
2. *Do you get involved with planning decisions in your local area? [Yes / No]*
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]*

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]

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 Questions 1 – 4

These questions are not applicable to us, as we are responding in our capacity as a Local Planning Authority. Our emerging [Westminster City Plan 2019 - 2040](#) sets out our planning priorities.

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

The council welcomes the move towards providing greater certainty on what the planning process will deliver for its communities and increased clarity for developers. We strongly support the principles of the approach and the reinforcement of a plan-led system. We are however concerned about the effective 'part grant' of permission for broad areas as proposed, which may inhibit achievement of sustainable development objectives, reduce clarity on what the planning system will deliver for our communities and reduce their scope to influence these. We are confident amendments to the proposed reforms can be made to address these issues and ensure these are workable.

The identification of 'Protected Areas' is supported, as we agree that where such a designation applies, detailed scrutiny of a scheme at the application stage should always apply to avoid lasting damage to the natural or historic environment. **Conservation Areas must be part of this category, in light of the special architectural or historic interest and where use and not just design can be an important consideration.**

Renewal Areas as currently conceived will have a varied built character and varied uses in urban settings. In a complex urban context with a varied townscape character and significant differences in massing and heights even within individual streets, it is our view that identification of broad Renewal or Growth Areas will rarely if ever be appropriate. Furthermore, the limitations of the proposed Renewal and Growth Areas is amplified by the need to consider the wider setting of heritage assets in Protected Areas – and the impacts of development in Renewal or Growth areas on Protected Areas. A finer grained response, at the level of specific sites, is necessary.

It is recommended that an 'alternative' simplified version of the categories identified in the White Paper should be adopted. This alternative approach would make any permission in principle apply only to Growth Sites (this should not extend to an *outline* permission). What constitutes a Growth Site should be defined in a Local Plan (and not strategic plans). This approach will allow targeted engagement on a limited number of key development sites and meaningful engagement at the application stage with communities.

Making this change would also have practical implementation benefits too. Three categories of land in local plans (Growth, Renewal and Protection) each with distinct application processes (with the added layer plus providing developers with permitted development rights), risks introducing a massive complication to the planning system. It is likely to be unclear to communities which approval routes apply to development sites that they are interested in or impacted by – and their role if any within each process. This complexity in administering the resulting multi-tier system will add cost to developers and local planning authorities and result in a less, rather than more, flexible planning system. Under the

proposed arrangement, authorities would be left picking up significant costs associated with preliminary design work.

Our officers are keen to engage with MHCLG officials and/ or join any pilots which would allow us co-design any Local Plan template and associated process. We are keen to ensure that any approach adopted retains the local dimension of a Local Plan and allow for effective local scrutiny of detailed planning proposals.

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

A national set of development management policies and potentially associated planning conditions will have significant limitations in supporting sustainable development. Locally distinctive development policies should be retained where justified by evidence. In Westminster where there are a significant number of nationally distinctive localities and special policy areas; for example, the Central Activities Zone and the distinctive special character areas within this. A locally specific response is needed to development management policies.

There is also the practical concern that making these nationally derived policies part of the statutory development plan as implicit in the proposals would give rise to the need for them to be subject to sustainability appraisals (or the replacement sustainable development test). For consistency there should also be some form of examination – which may not be practical at the national level. We recommend that local authorities have the choice to opt into adoption of any such policies in their own Local Plan.

The council does not agree that local planning conditions slow down the planning process or add unnecessary complexity for developers. When applied correctly they make a valuable contribution to the building better, building beautiful process.

Questions

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.]

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

7a) The Council supports measures to simplify the plan making process, the introduction of a single 'sustainable development test' and accelerating the independent examination process. However, it is important that whatever process is adopted provides clarity for communities and reduces the cost burden for local authorities. We must also ensure that our communities have confidence in the plan making process and any changes should allow for proper consideration of impacts of development. Careful consideration of deliverability must also form part of the plan making process otherwise communities risk losing confidence in Local Plans.

7b) We agree that the current duty to co-operate system is ineffective, so reform of that is welcome; however, mechanisms to enable this cooperation are needed and should remain a locally led exercise. In London, any measures to secure cooperation across public agencies needs respond to and be explicit about the role of the GLA and the London Plan - its role and its limits.

Local authority led (rather than regionally dictated) mechanisms for consideration of cross boundary planning matters should be defined as part of the reforms. The council has worked effectively with neighbouring authorities and other agencies in order to form sub-regional partnerships to consider cross boundary matters. Existing Local Plan evidence documents such as production of Infrastructure Delivery Plans could be adapted to better consider cross boundary issues. Westminster City Council pioneered the production of a joint infrastructure plan with central London partners when the requirement for these was introduced. The revised sustainable development test could also have a role in better articulating how duty to cooperate matters should be managed and assessed in an independent examination. Again, existing Local Plan processes/ evidence may offer a platform for development and refinement to support this. It is noted, for example, that the existing Sustainability Appraisal process already includes a statutory requirement to consider cross boundary effects.

Questions

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.]*

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

Through our new City Plan 2019 – 2040, City for All Strategy and regeneration programme, the council has placed building new homes at the forefront of its ambitions. Our draft City

Plan, which is currently under public examination includes provision for over 20,000 new homes to be built by 2040, 35% of which will be affordable.

We are committed to working with Government to increase housing delivery and to enable homeownership and we support the aims of the proposed changes and the aims of the White Paper. As is recognised by the White Paper, to achieve increased housing delivery requires whole systems change, beyond simply increasing housing targets, and wider areas where councils could assist Government in achieving its vision include:

- Devolved affordable housing funding for local authorities with ambitions to develop
- Working with Government to identify and release other public sector land for housing delivery
- Powers for local authorities to ensure planning permissions are implemented
- Increased flexibility around planning decisions, to enable them to be more responsive to changes in local need
- Reform of planning obligations and CIL to better capture land value uplift and reduce the prevalence of viability assessments in planning decisions
- Joint work with Government on home ownership products which works well in central London.

The approach to setting any housing target must to be realistic about the availability of land and the capacity of those sites particularly in intensely developed urban areas which have high existing land use values. It must also consider land needs for non-residential uses particularly in areas of importance to the national economy. Westminster is the base for some 55,000 businesses, from large retailers on Oxford Street to stall holders on local street markets. The commercial activities in the City of Westminster helped to contribute £53.6 billion in gross value added (GVA) in 2015; 14.2% of London's total and 3.2% of that of the UK¹.

Giving undue weight to affordability factors will inflate the need figure in Westminster and other locations where house prices are high and affordability challenging. Conversely, this may also inhibit investment and delivery where prices are lower. Land availability and the capacity of sites is the key to delivery (irrespective of the affordability factor). Measures related to the 'extent of the existing urban' area do not apply in larger cities. Any methodology – if adopted - should avoid significant fluctuation. Flexibility to deviate from any standard methodology should always be built into it- where this is justified by local circumstances.

There should remain a role for spatial strategies (i.e. the London Plan) in allocating housing targets to make sure there is a meaningful assessment of deliverable capacity. However, this must be based on a meaningful assessment of housing land supply and done in

¹ Greater London Authority Economics, Current Issues Note 55: Examining GVA in London's local authorities in a London and UK context, 1997-2015 (September 2017)

consultation with all boroughs taking into account deliverability and existing constraints identified (such as land under the 'Protected' category).

Questions

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.]

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.]

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 / **N/A**. Please provide supporting statement.]

Response to Question 9

9a and b) Our emerging [Westminster City Plan 2019 - 2040](#) sets out a vision for the right kind of growth in Westminster; the right type of new developments will help us build on our remarkable legacy to create a city where people choose to be. We are concerned that elements of the White Paper Proposals could inhibit our vision for the right kind of growth. As noted above in response to Question 5, the categories Growth, Renewal and Protection are insufficiently developed and represent a blunt tool in Westminster given the city's unique built environment. It is very unclear how zoning would work in this context, particularly how the boundaries between different zones would be managed so as not to have a detrimental impact on local amenity, views and townscape.

Our suggested approach, also outlined under Q5, is to limit the new Local Plan categories to locally defined Growth Sites (rather than Growth Areas) and Protected Areas. Any permission in principle should be limited to Growth sites, with the associated technical details consent regime still allowing consideration by planning committee with appropriate engagement and consultation with communities at the application stage. This would provide greater certainty for developers but retain the necessary safeguards to ensure the right kind of development for Westminster.

Design codes (and Masterplans) could have a positive role in providing greater certainty on design expectations, where adopted in relation to Growth Sites (as distinct from Growth Areas). However, these should not unduly dictate development form – and compliance should be a material consideration only rather than an automatic approval with compliance. It is essential that the planning application process is used not a 'tick box' exercise, but rather a process that enables and improves development in partnership with developers.

'Protected' characteristics, such as Conservation Areas, will shape the form of growth and development, but this has not in the past and should not in the future act as a limit to enabling new development. Westminster has 56 conservation areas, covering almost 80% of the city as well as 23 registered historic parks and gardens. Our special historic environment

is a critical factor in managing development and change in the city. Robust consideration at the application stage of developments is necessary to enhancing and revealing these heritage assets and allowing the city to grow in a way which retains its distinctiveness.

We strongly agree that development proposals in Protected Area require a thorough and meaningful assessment at the application stage and should be subject to the existing planning consent regime. This should also apply to other areas not identified as Growth Sites – deleting the Renewal route and simplifying the process.

It is our view that engagement and consideration of impacts must be thoroughly considered at the planning application stage when the full detail of design is available and to allow proper and rigorous assessment of other impacts. Such an approach is not incompatible with providing certainty and reinforcing a plan led approach and City Council can point to many examples where the input of officers, Members and other stakeholders such as Amenity Societies have contributed positively to the design and quality of development in response to engagement at pre-application and application stage. In more complex established urban environments pre-application discussions are vital to ensuring that schemes are suitably contextual and reinforce the existing sense of place. Officers have delivered many significant enhancements to schemes over the years to enhance their design quality and beauty and maximise the public benefits they deliver. Recent examples include the Elizabeth Line at Bond Street East to secure restoration of a Grade 2 Star listed building and provision of a new public space as part of the oversite development, ensure appropriate modelling of the height and bulk of the redevelopment scheme for Middlesex Hospital, whilst also ensuring the restoration of the Grade 2 Star listed building chapel and the significant enhancements to the initially proposed public realm designs for the Thames Tideway Foreshore scheme.

The comments of Amenity Societies and other local stakeholders at application stage play an important role in the planning process as their in depth local knowledge and understanding frequently assists officers in forming a more rounded view on the suitability of proposed development to a particular location. A planning process that is devoid of local opinion at the decision making stage, in addition to physical site considerations, risks imposing development on communities to the detriment of the wider trust in planning.

In common with many authorities, the council already delegates to officers a large proportion of applications (1.7% in 2019 and 2020), allowing committee to focus on the most significant and complex applications. Many authorities, including outside London, have a lower proportion of delegated decisions – and the approach appears designed around these authorities rather than London authorities where this is already common practice. It is for local authorities to define which applications are appropriate to be referred to their planning committees, which have an important role in determining the suitability of development, particularly in established urban areas where the impact of development is deeply rooted in not only its principles, but also its detailed design, bulk, height and form. In these more complex urban environments, such as Westminster, planning committees play a vital role in moderating planning decisions, often ensuring that schemes are amended by

minor amendment or by use of conditions to ensure that schemes are neighbourly and sit comfortably within their context.

9C) This question does not apply to central London planning authorities.

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

Investment in digitisation and automation should speed up the process of submitting planning applications. Moreover, it should aid the administrative process around the way in which information is captured rather than attempting to supplant the assessment process. A continued focus on consultation and engagement at the planning application stage is also needed. This is to avoid a potentially unrealistic aspiration to engage affected communities effectively on every single site in a Local Plan (some of which may come forward later in the Local Plan period). This should cover not just digital engagement but a range of methods to ensure that communities are not excluded from participation in planning. Digital engagement should complement and extend the reach of existing approaches rather than replace them.

The recognition of the cost and resource demand associated with reforms is welcome. Assurances are however needed to ensure that funding to support implementation of reforms is adequate and provided early enough so that resources are in place. Resources linked to the increased design input and engagement processes (digital and otherwise) are vital to the success of any reform. In this context, Local Authorities should have the flexibility to define fees locally or at a sub-regional level so that regional variations in the cost of providing planning services are accounted for. Such a process could be supported by evidence published on a website to justify the approach. Consideration should also be given to fee charging associated with listed building consents (these could be introduced as standalone fees and/ or where a linked planning application is submitted a fee of 1.5 times the planning application fee could be levied to limit the burden on the applicant).

Planning Performance Agreements, project plans for determining applications agreed with the LPA and develop and funding associated with these, should be retained to support service delivery. Planning Performance Agreements are used effectively with developers in Westminster to manage resources and are used to improve the quality of a development enabling it to be granted permission. Failure to incorporate the use of this mechanism could have the perverse impact of rushed approvals or increased delay and costs to developers in re-submitted schemes which could have been approved, but which were initially refused to meet an arbitrary decision deadline.

Costs of planning fees should not be rebated if an appeal is unsuccessful; this is unreasonable where the local authorities have already incurred costs associated with the application and appeal and would add uncertainty to the level of planning service funding available. These measures could in fact lead to more approvals for poor quality development if councils are incentivised to be increasingly risk adverse undermining the ‘building beautiful’ goal set out in the white paper.

The principle of allowing Infrastructure Levy receipts to be spent on *any* aspect of planning services (without limitations), based on a local assessment of service needs is supported. But this should reflect service costs and not erode affordable housing and other infrastructure contributions and delivery – and the further reform to fee setting is a more appropriate mechanism.

Assurance is needed that a nationally set tariff will not reduce the overall resources available to councils to invest in infrastructure, particularly in areas of high land value. The council is particularly concerned that **a nationally set tariff will reduce the overall resources we have to invest in our affordable housing programme** as well as other necessary infrastructure. It will do this through a double hit: first by reducing the overall size of the funding pot and second by increasing the number of funding pressures on the council with a requirement to cover affordable housing, infrastructure projects, neighbourhood projects (and potentially planning service costs). This will seriously undermine the council’s ability to deliver good quality affordable housing – a major policy goal of the white paper.

Crucially, the reforms should not mean the loss of Neighbourhood CIL which provides critical investment in infrastructure determined by local community priorities.

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

We support the approach to simplify plans and make them more accessible for our communities and more usable for developers and officers. We would welcome opportunities to work closely with MHCLG on this matter to ensure we:

- avoid a rigid template that does not allow for meaningful articulation of a local spatial strategy
- adopt an appropriate balance between written and visual components - with the focus on the latter being clarity for the plan user
- visualisation tools employed to do not result in excessive plan production costs.

Digital approaches to plan making and process improvements are supported, along with other measures to streamline plan making are supported in principle providing they are capable of ensuring impacts – including cross boundary effects – can be addressed. There

may be merit in greater standardisation in evidence base documents to improve accessibility and clarity.

Use of new digital tools (among other approaches) for consultation are similarly supported but this should be encouraged in policy rather than prescribed in legislation so authorities can select approaches that are most appropriate to their communities and spatial context.

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

While the council agrees that the process of Local Plan making should be streamlined and provide greater certainty, this needs to be balanced with ensuring that effective engagement on Local Plan proposal can be carried out and needs to factor in timescales associated with reporting to and scrutiny in public meetings (along with associated call in periods). A faster timescale must not come at the expensive of meaningful consultation throughout the plan making process otherwise this will undermine trust and create a democratic deficit.

An accelerated Local Plan production timetable is dependent on the scope of any new sustainable development test and the associated evidence base requirements, and needs to recognise the resources and implications for project management of plans associated new supplementary requirements for design codes and masterplans.

Questions

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

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

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

The City of Westminster has one of the highest number of Neighbourhood Forms in the country. They depend almost entirely on the good will and commitment of volunteers who are dedicated to improving their local areas. The council strongly supports a retained role for neighbourhood planning but the work of volunteers must be recognised under a reformed planning system. Currently, it takes too long to produce a neighbourhood plan and there is not enough to resource to support the process. There must be no reduction in the duration of Neighbourhood Plans given the amount of effort it takes from dedicated

volunteers to get a plan adopted – to do so would be a major disincentive to local people to volunteer their time. Greater certainty and more funding will encourage more people to volunteer their time and make sure neighbourhood plans play as full a role as possible in building better and building beautiful. We would be happy to facilitate workshops between MHCLG and neighbourhood planning forums operating in Westminster which wish to participate to explore these issues.

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 Question 14

It is agreed that there should be an emphasis in build out of development which as a local authority we need to realise in our City Plan objectives. Consideration should be given to ways to positively incentivise faster delivery by developers rather than penalise local planning authorities (such as through the Housing Delivery Test and addition of buffers on housing targets). Such measures may sit outside of planning matters and legislation.

Questions

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]

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 Questions 15 – 16

These questions are not applicable to us, we are responding in capacity as a Local Planning Authority. Our emerging [Westminster City Plan 2019 - 2040](#) sets out our planning priorities.

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

Design codes can usefully set parameters for development, particularly where developed with the community. A binding approach may lead to unintended consequences – such as eroding the ability of Local Authorities to work in partnership at the level of a site to bring forward innovative design responses. The variations of built form in Westminster’s character would mean that setting height limits ahead of detailed design proposals would be difficult and potentially have adverse townscape impacts or limit densities that could be achieved.

Design codes may be appropriate and provide clarity when applied on a fine grain and site-level, but these should not be binding on development and it will rarely in a Westminster context be appropriate to be prescriptive in relation to building heights.

Significant resourcing will be needed to prepare design codes and ensure that design code address critical issues including decarbonisation, climate resilience, health and equality. These costs should not be borne by the council and measures to support upfront investment should be provided for. Similarly, clarity needs to be provided on the role of neighbourhood forums in developing design codes. Neighbourhood forums should play a key role but they will be majorly constrained by resources to contribute fully to the process.

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

Design codes can usefully set parameters for development, but this is a binding approach which may lead to unintended consequences – such as eroding the ability of Local Authorities to work in partnership at the level of a site to bring forward innovative design responses.

The variations of built form in Westminster’s character would mean that setting height limits ahead of detailed design proposals could result in safe – but bland – approaches with potentially adverse townscape impacts or limit densities that could be achieved with creative design responses.

A ‘pattern book’ approach to development is simply incompatible with the Westminster context (and the ‘Protection’ category and approach to permissions proposed). The mixed character – across Westminster and in evidence even within some of our individual streets – and will severely limit the efficacy and value of such an approach. It is important to be able

to scrutinise design execution and not just measurable/ quantifiable elements such as materials.

Design codes may be appropriate and provide clarity when applied on a fine grain and site-level, but these should not be binding on development and it will rarely in a Westminster context be appropriate to be prescriptive in relation to building heights at the area (versus site) level.

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

No specific comments – but general design led approaches and investment in resources to support this is welcome.

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

In general, the prior approval system has not delivered good quality housing and instead has created a two-tier planning system bypassing the development plan, which is undesirable. We should be cautious about expansion of such rights. Granting permission based on adherence to generic design principles removes the ability of the local authority to consider site specific issues relating to the design of a scheme, how it responds to the local area or its context. It is important to be able to scrutinise design execution and not just measurable/ quantifiable elements such as materials.

Such an approach would have significant limitation in our area. Westminster has a unique built form; its distinctive mix of buildings and spaces results from its historical pattern of development and position at the heart of London. With the exception of the expansive spaces of the Royal Parks, it is characterised by its dense pattern of development and urban grain. While there are corridors of development with significant uniformity these are typically in 'protected' conservation areas including listed buildings. Outside of these areas there is considerable variance in building form even at the level of a street. A 'pattern book' approach to development is simply incompatible with the built environment context of Westminster and may inhibit innovative design. The mixed character – across Westminster

and in evidence even within individual streets - will severely limit the efficacy and value of expanding permitted development rights.

Prior approval requires a high level of officer time yet currently attracts a much smaller fee. Planning fees for prior approval should be commensurate to the officer time involved in processing the application. Planning fees should be amended to adjust to the new way of assessing these issues under any new method prior approval - there are likely to remain many issues in densely developed urban areas which will still require detailed consideration beyond standard design issues and local planning authorities should be compensated commensurate to the level of work that is required to assess proposals.

We would recommend that authorities are given the opportunities to opt into such PD rights (rather than 'opting' out of through time consuming and costly Article 4 Directions) where this would support sustainable growth in their area. Any such measures to allow authorities in parts of the Country where this would speed up delivery and lift design quality to use them. Blanket imposition of permitted development rights based on popular design would be counter-productive in locations like Westminster.

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

These questions are not applicable to us, as we are responding in capacity as a Local Planning Authority. Our [emerging Westminster City Plan 2019](#) sets out our planning priorities.

Questions

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.]

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**]*

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.]*

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

Assurance is needed that a nationally set tariff will not reduce the overall resources available to councils to invest in infrastructure, particularly in areas of high land value. The council is particularly concerned that **a nationally set tariff will reduce the overall resources we have to invest in our affordable housing programme** as well as other necessary infrastructure. It will do this through a double hit: first by reducing the overall size of the funding pot and second by increasing the number of funding pressures on the council with a requirement to cover affordable housing, infrastructure projects, neighbourhood projects (and potentially planning service costs). This will seriously undermine the council's ability to deliver good quality affordable housing – a major policy goal of the white paper.

22a) There is insufficient detail at this stage to comment on the proposed methodology for setting the charge, notably the 'value' measure, that might be employed in setting the charge. Linked to this, the threshold value (noting it is a value rather than scale of development) and means of calculating this is not yet specified. Without understanding this, is it not possible to assess the impact or difference it would have on our ability to secure onsite affordable housing or infrastructure contributions. However, we would want to make sure any new charge reflects local land values. This is particularly important in areas, such as Westminster, with very high value land.

We wish to continue to secure policy compliant affordable housing levels and current levels of CIL contributions for infrastructure as a minimum. In 2018/ 19 after the characteristic three years to build up receipts, CIL contributions collected had reached £25.6 million – this is at the level we projected when we first adopted a CIL in 2015. This funding stream is important to unlocking development in our area and ensuring our existing and future communities can access the infrastructure and associated services they need.

Section 106 has an important role in enabling development which would not otherwise be permitted. It is not clear how the Infrastructure Levy will, or whether it can, fill this gap. The proposals need to be adapted to accommodate the current wider role of planning obligations in securing non-financial / other onsite measures unrelated to affordable housing; examples of this include: site specific public realm or highways access measures, affordable workspace, securing affordable housing tenure (such as affordable rent or intermediate) in perpetuity, employment and training plans etc.

2b) The final approach to charge setting should reflect local land values and not reduce the overall resources councils have to invest in local infrastructure, particularly affordable housing. If this is not accounted for the reforms will undermine one of the key ambitions of the white paper to building more housing . Furthermore, the method should allow for variations within local authority areas. In Westminster, this can be significant, and a flat

charge is unlikely to be appropriate. Within London there is significant variation in land value for instance residential land Westminster is estimated at £135 million per hectare compared to £7.6 million in Bexley ([MHCLG, 2019](#)) This has implications for the development costs of mitigations to reduce the impact of developments on an area such as building new schools or improving roads. Therefore, a London-wide set levy would not cater to the vastly different needs and costs of different areas of London, giving each local authority the ability to set their levy is the only viable means of bringing in developer contributions.

The affordable housing component of the charge should reflect the costs associated with delivery on site (and not just be a factor of sales values); this is essential to secure continued on-site delivery in a high value land context. Failure to do so will lead to reduced affordable housing delivery.

Allowing Infrastructure Levy receipts to be spent on *any* aspect of planning services (without limitations), based on a local assessment of service needs is supported. But this should reflect service costs and not erode affordable housing and other infrastructure contributions and delivery. Providing for local fee setting would provide a more appropriate – and timely - funding mechanism

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, Infrastructure Levy should capture changes of use permitted through permitted development rights. This is important to ensure that the impacts of these developments are properly mitigated.

We do not agree with the proposal that payment of the new Infrastructure Levy should be made at the end of construction. Planning gain is an intrinsic part of the system and critical to maintaining local trust in development. The current payment schedule for CIL should be retained to make sure local benefits from development come forward quickly.

Questions

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.]

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.]

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.]

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 Question 24

24a) The Council supports the intention to ensure that at least current the level of onsite provision of affordable housing can be retained; but we are concerned that the mechanisms by which this can be achieved under the new system is unclear risking under provision.

The target level should be that in affordable housing policies in Local Plans which reflect the locally identified need for different tenures of housing. The Council has a 35% affordable new homes target in its emerging City Plan. The existing context for achieving onsite provision has already been challenging. Over the last six years, 5,468 net residential units have been completed of which 586 were affordable, amounting to 11%. Where it has not been possible to provide affordable units (either on or off-site) the council has agreed payments in lieu in the order of £188 million to support our plan to deliver 2,000 new affordable homes by 2023. In this context the Council is prioritising onsite housing delivery.

24b & c) Affordable housing should be secured as an in-kind payment to ensure ongoing on-site delivery other than in exceptional circumstances where a payment is accepted (mirroring our current local policy approach). There should be clarity on the level of onsite provision at the permission stage (and not later in the development process). Any move away from on-site delivery would undermine Westminster City Council's efforts to deliver given the limited land and constrained development context we have to deliver our own affordable homes.

Liaison with affordable housing providers to secure on site provision should remain the responsibility of developers – this should be supplemented with measures aimed at supporting swift take up of units by affordable housing providers. Legislation to mitigate overpayment risk (or overvaluation as an in-kind measure) is welcomed and should be provided for irrespective whether there is a new role for local authorities.

More generally, the Council is concerned that the risks related to the delivery of affordable housing and other necessary infrastructure to enable development are passed on to the local authority. In some cases, upfront delivery of infrastructure will be necessary to make the specific development acceptable in planning terms. An option for upfront provision of infrastructure should be built into the system with an allowance for this to be credited back when the levy becomes due.

Question

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

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

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

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

Response Question 25

25a) In relation to powers to allow the Infrastructure Levy to be spent more widely, the council welcomes the flexibility to define locally what any receipts will be spent on. However, we are concerned that moving the payment to occupation stage might inhibit or slow delivery and the salami slicing of the infrastructure Levy to cover affordable housing, infrastructure projects, neighbourhood infrastructure projects (and potentially planning service costs).

25b) The Infrastructure Levy associated with affordable housing should be separate to any general infrastructure or neighbourhood infrastructure components of the charge both in terms of the way it is calculated as well as the way it is spent. This would mean that the affordable housing component of the Infrastructure Levy should be ringfenced for use on affordable housing and remainder applied to infrastructure / other mitigation measures. Both components are necessary; one should not erode other and building in separation will provide greater certainty on future funding streams for affordable housing providers and infrastructure delivery agents.

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 Question 26

Subject to the implementation of the approach there is a risk that the White Paper proposals where they relate to affordable housing, could result in a reduction in affordable housing supply, both social and intermediate in Westminster. Our analysis of households in need of social housing are particularly likely to have protected characteristics under the Equality Act 2010 and more likely to be:

- Women
- From a Black, Arab or Asian ethnic background
- In the 25 – 64 age group
- In households with children and lone parents.

Fifty-one per cent of social housing applicants are homeless households so the proposals have the potential to impact them in particular and could lead to longer periods of time spent in temporary accommodation which are identified to have a negative impact on children in particular. This would come at a time when demand from homeless households has the potential to grow due to Covid-19.

Additional comments

The Council has the following observations on aspects of the proposals that are not specifically addressed in the consultation questions.

- The council strongly supports measures to provide funding to implement reforms and to support skills development across the sector.
- The White Paper is largely silent on Climate Change Emergency. As replacement proposals for Sustainability Appraisal and Environmental Impact Assessment are developed, opportunities should be taken to embed consideration of climate change mitigation and adaptation in these new processes. Again, our officers would be happy to engage in the development of these aspects of the proposals.
- While an ongoing need for the Five-Year Housing Land Supply will be removed, there will still be a need for the housing trajectory - showing availability of deliverable sites – at the plan making stage. This will also need to be kept under review to enable updates and considered to enable a review of the Local Plan to be triggered.
- Lack of focus on economic growth – this is meant to be a Planning White Paper (not a Housing WP). The White Paper is silent on the role of the planning system in supporting the economic recovery from Covid-19. While housing delivery is critical it needs to be part of a more balanced vision for planning reform.
- Welcome support for planning enforcement activities. In particular:
 - a) 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, including the preparation and review of Local Plans and design codes and enforcement activities.
 - b) We want to review and strengthen the existing planning enforcement powers and sanctions available to local planning authorities to ensure they support the new planning system. We will introduce more powers to address intentional unauthorised development, consider higher fines, and look to ways of supporting more enforcement activity.
- We would be happy to work with the MHCLG and be involved in any working party regarding the enhanced enforcement powers and discussions around making Temporary Stop Notices more effective.