

## Planning for the Future White Paper response by Nottingham City Council

- 1 Nottingham City Council welcomes the opportunity to comment on the proposed changes to the planning system and is supportive of changes to bring about a simpler, faster and more predictable system for the benefit of both its dedicated and committed planning officers, its valued citizens and the profession as a whole.
- 2 Planning is at the heart of the Council's corporate priorities and it has first-hand experience of how planning has transformed Nottingham and the lives of Nottingham's citizens. Planning is not about rigidly applying rules and solely measuring success through the number of completed shiny new homes and buildings (though Nottingham has been very successful in this regard). The City Council and its partners have worked relentlessly to connect the benefits brought about by new development to citizens and have made great strides in improving outcomes for them and this is demonstrated by positive movement in the deprivation rankings of the City. In working towards Nottingham's goals, the City Council agrees that the planning regime has become overly complex, plans take too long to prepare, assessments of housing need and environmental impacts have become too complicated and impervious, the process for negotiation of developer contributions has become protracted and unclear, and critical and pressing needs such as, viability in areas of low-land value, infrastructure funding and delivery, social inequality and climate change have not received the national solutions that are needed.

- 3 Ultimately, the City Council is of the firm belief that the system needs improvements but not in the manner and scale that is proposed in the White Paper. Given the current climate of uncertainty and economic stability, and the grave situation that many local authorities find themselves in as a result, Nottingham City Council is even more resolute in its view.
- 4 Furthermore, the City Council vehemently does not accept the criticisms levied at the profession (and which effectively set the context of the White Paper) to be helpful or conducive to bringing about the necessary improvements to the planning system. In particular, the White Paper incorrectly criticises planning for problems that it cannot solve in isolation – such as the production of housing consents (there have been thousands of new homes delivered in Nottingham in recent years, and nationally, in 2019, 371,000 homes were approved, yet developers still only delivered 241,000 homes). The Paper fails to recognise, or even acknowledge, that ten years' worth of government planning reform measures has contributed to creating the current problems, and the lack of strategic planning, has made Local Plan preparation extremely challenging. In this regard it risks undermining Greater Nottingham's sub-regional strategic partnership and the very successful Greater Nottingham Joint Planning Advisory Board.
- 5 Fundamentally, for a White Paper there is both a lack of detail regarding how many of the proposals will be implemented and demonstrable proof that they will work in practice, which render it hard for the City Council to see how these proposals will deliver its objectives, and the Government's objectives (to see a simpler, faster and more predictable system). Furthermore, there are no proposals in the White Paper which set out how the proposed system will assist in the "levelling up" of the nation, as Government housing targets are not proposed to be set within the context of either a national or regional plan. This is a significant omission. This omission, combined with the fact that the Paper is too heavily focused on housing delivery (which Nottingham has been consistently successful in achieving), mean that the proposals risk undermining the City Council's reputation for collaborative working to achieve high quality planning and place-making to help meet the needs of Nottingham's citizens.
- 6 A further critical issue that is very apparent upon reading the White Paper is the conflict between the objectives of the White Paper and the resulting proposals that do nothing to genuinely build the trust of local communities. It is not enough to offer local communities the chance to comment on a drafted version of the Local Plan once it has been submitted for Examination. Front-loading public participation, and limiting it to plan making, undermines local democracy and does nothing to address the stated aims of the White Paper.
- 7 Nottingham City Council firmly believes that the current planning system would benefit from improvements to ensure that it is simpler, faster and more predictable but that it must operate in the public interest and should be both democratically accountable and genuinely participative. It must also reflect the complex social, environmental and economic geography of the different parts of the country and be fit to deal, not just with the current pandemic, but with critical

future issues that require action to start now such as the severe impacts of climate change and social inequality.

## PLANNING WHITE PAPER – NOTTINGHAM CITY COUNCIL RESPONSE

### A NEW APPROACH TO PLAN-MAKING

#### Pillar One – Planning for development

**Proposal 1: The role of land use plans should be simplified. We propose that Local Plans should identify three types of land – Growth areas suitable for substantial development, Renewal areas suitable for development, and areas that are Protected.**

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

A more streamlined Local Plan process is supported but not as set out in the White Paper. It is considered that the current planning system would be preferable to the proposals described with an emphasis on improvements to eliminate disproportionate evidence base requirements, secure more resources for planning departments, measures to address market viability, social inequality, infrastructure provision, improved design and critical policy areas (e.g. climate change).

Defining just 3 areas with a blanket approach within each area is inadequate. This unsophisticated approach lacks the fine detail required to address development in complex urban areas. It is not clear how the three categories will be defined in practice and consequently the City Council has no confidence that the system will work as intended. It is noted that there is no detail on the size or scale of the categorised areas. In Nottingham, there are countless examples of Growth (regeneration areas), Renewal (primary residential areas) and Protection areas (open space) all on the same street.

It is considered that the Renewal Areas will be very hard to define, and reach consensus upon, given the strong presumption in favour of development (rather than sustainable development) in these areas and the envisaged provision of an automatic consent regime for them. There will potentially be a huge variation in the types of uses to be found in Renewal Areas (e.g. town centres, employment areas and residential areas) and it will be very challenging to ensure that the Local Plan can adapt to changing circumstances and the specifics of such broad areas. We highlight the enormous efforts we have gone to create new neighbourhoods and that some of our Primary Residential Areas are settled and static and a presumption in favour of development here is not helpful or desirable. It is also concerning that the consent regime for Renewal Areas is very unclear: a 'new permission route' and a 'faster planning application process' are referenced with no further details given.

Clarification is also needed as to how big or small these zones can be as this will directly affect the ability to protect important archaeological remains. The difficulty here from an archaeological perspective is that archaeological remains are somewhat of an unknown quantity. They are buried and therefore their locations and extents are often unknown. It is not possible to clearly define areas of protection given this uncertainty. Even in the case of Scheduled Monuments, their full extent is often unclear. It is for this reason that the NPPF makes provision for remains of demonstrable equivalence to Scheduled Monuments to be afforded the same level of protection as a designated heritage asset. For example, in the case of the Lenton Priory Scheduled Monument (in Nottingham) the full extent of the

Priory precinct is unknown. Indeed perhaps as much as a third or even a half of the Priory exists outside the Scheduled Monument. Where would one define the preservation area? Given the large number of caves within the city there is also the credible potential that caves may be encountered which require preservation and these may only be identified once planning permission has been granted, or at least certainly after an area may have been designated one of Renewal or Growth. The proposed three area system requires further thought to determine how such areas are defined, the factors upon which decision making about how those areas are created is based and how such areas are reviewed over time. As new discoveries are made, and our understanding of known archaeological sites changes, there needs to be a mechanism of review in place. And it needs to be accepted that some remains of archaeological significance may exist in all areas of the city and therefore will be threatened by introduction of the proposed three area unless appropriate measures are in place. The proposals seem rather rigid yet new discoveries and ongoing research change the perception of significance.

For the Government's proposals to work, it is considered necessary to have more than three zones. A binary approach would be even more problematic.

The City Council does not agree with the assumptions under this proposal that zoning-based plans are either shorter or less complex than current Local Plans or that there will be much less work to preparing plans. We cannot conceive that there will be less of an evidence-base requirement as authorities will still need to address all the relevant considerations in arriving at decisions about whether land is suitable for development, and the form it should take. The proposal requires a whole raft of sites to undergo a similar process to an outline planning permission, all at the front end of a 30 month period – the current Nottingham Local Plan includes 74 site allocations. If all were considered Growth areas, there would be insufficient resources to do this within the time frame.

Furthermore, the City Council does not believe that the introduction of the proposals and abolition of the existing system, during the current pandemic and the consequent uncertainty and instability is the right approach. Government do not seem to have taken into account how long a new planning system takes to introduce. The 2004 changes, which introduced Local Development Frameworks, took many years to settle in and refine due to the requirement for changes to legislation, and best practice to emerge.

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

### ***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?***

In principle this could help to simplify local plans. The NPPF already adopts this approach to some extent, but it is not strictly adhered to and the resultant ambiguity seems to compel authorities to repeat policies, for security, in their Local Plan.

A benefit of the proposal can be seen where national policies give a clear steer to developers, and provide a level playing field nationally, e.g. for carbon neutrality and other key elements of sustainable development.

Fundamentally, the City Council would support a flexible approach so that national policies could be adapted and supplemented due to genuine local circumstances. In Nottingham, it is considered that the presence of over 800 caves beneath the city genuinely merits a locally distinct planning policy due to the unique characteristics of this significant asset. A further example where the City Council calls upon local flexibility is in relation to student accommodation development. The City Council has been able to respond to local concerns surrounding student accommodation and has put an enormous effort into improving the planned environment and amenity of both students and hosting communities through the development of locally responsive policies. Additionally, the City Council is concerned that local flood risk and sustainable drainage policies will be lost and national policies, particularly around SuDS will need to be more rigorous in order to support the existing stance of local authorities.

In reality areas are not the same, do not experience the same issues and there is a consequent need for authorities to be able to draft locally responsive policies to meet valid aims. It is unacceptable to remove key areas of local influence from the democratic process and the Government risks a clear contradiction with the objectives of the White Paper if it proceeds in this manner.

**Proposal 3: Local Plans should be subject to a single statutory “sustainable development” test, replacing the existing tests of soundness. The Duty to Cooperate would be abolished. Public engagement is proposed to be largely through plan making, with permission being established through the plan in many instances.**

***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?***

The City Council supports the simplification of the Tests of Soundness in order to speed up Local Plan Examinations. It is important to retain some parts of the Tests to ensure the appropriateness and deliverability of Plans and check their conformity with the NPPF.

The City Council also supports the abolition of the Sustainability Appraisal system, which has become far too onerous, and its replacement with a simplified process for assessing the environmental impact of plans.

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

Whilst the White Paper advocates removing the Duty to Cooperate, it does not offer up any alternative approach to dealing with strategic planning matters and the City Council considers this to be a significant oversight. The Duty to Cooperate has been problematic to many authorities, but without an alternative to planning for strategic development across and between functional areas such as Housing Market Areas, the Government will not meet its housebuilding aims. Too many local planning authorities are constrained, either through being urban (and not having enough land), or environmentally (by Green Belt, AONBs etc.) that they cannot meet their own needs.

The City Council wishes to highlight that the Duty has worked in the past in Greater

Nottingham, and the proposals therefore risk losing established mechanisms and partnership approaches, without a replacement. This will severely impact on cross-boundary strategic planning for our area to address a wide range of issues. Experience from around the Country indicates that powerful incentives are required to achieve meaningful and effective strategic planning. If the Duty is to go, it should be replaced by a process with more teeth that local planning authorities cannot circumvent.

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

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

The City Council supports the development of a standard method for establishing housing requirements as the current approach is both complicated, opaque and time-consuming. We firmly believe that this approach needs managing across functional areas, i.e. Housing Market Areas. Any methodology should be sophisticated enough to take account of areas like Greater Nottingham, which is made up of a number of authorities. The City is tightly bounded, so has little opportunity to extend the built up area, whilst surrounding boroughs are tightly constrained by Green Belt.

Furthermore, it is an absolutely critical requirement that local planning authorities are involved throughout the process of arriving at housing requirement figures (e.g. from a 'policy off' to a 'policy on' scenario) to ensure that requirements are sense checked and any examination begins from a robust starting point to ensure efficiency and credibility. There is little point setting housing targets that cannot physically be met.

In terms of this proposal, it should be acknowledged that consent has been granted for up to one million homes that are yet to be built and is not accepted that land supply should be seen as the most significant barrier to delivering homes. This stance is unhelpful, diminishes the problem and prevents a more effective solution from being implemented. The standard method as proposed would do nothing to address the critical issue that it is not local authorities who ultimately control whether new homes are built. The lack of control for councils over delivery rates means that penalising councils and the communities they support when targets are not delivered is unfair and unjustified and is not supported by the City Council.

A criticism of the approach is that having a methodology linked to household projections risks requiring more homes where they cannot be provided. The City Council therefore supports the development of a regional or even national perspective so that Government is able to realise objectives relating to levelling up and achieving strategic investment across the country.

It is essential that any methodology supports the positive impact of new house building to local economies and supports the growth and regeneration aspirations of Midlands and

Northern cities, and that job density is used within any new methodology. Without this there is significant risk that the methodology will continue to drive an unsustainable pattern of housing growth focussed on already 'over heated' parts of the country.

***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?***

In addition to affordability, and the extent of existing urban areas, appropriate environmental indicators should be considered, including the ability to achieve carbon neutral and climate adapted housing. Climate Change is a huge priority for the City Council and we do not wish to see the delivery of this agenda compromised and the opportunity missed to include this as a factor in the standard method process.

**A STREAMLINED DEVELOPMENT MANAGEMENT PROCESS WITH AUTOMATIC PLANNING PERMISSION FOR SCHEMES IN LINE WITH PLANS**

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

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

No. The proposals appear to be very unclear; and the extent to which outline permission will be the same as outline permission under the current system is not confirmed. We would highlight that there is no detail of what will be considered reserved matters, and no clarity as to what would be allowed. In current terms, the level of detail required to effectively grant outline planning permission across a growth area would be very significant, and the resource requirements could overwhelm many planning departments. It could also create a much more complex Local Plan system.

Currently when dealing with an outline planning application, the LPA has to address all considerations which have a bearing on whether the principle of the development should be approved. Consideration may include significant matters such as necessary infrastructure requirements, access, layout, environmental mitigation measures and matters requiring prior site investigation (such as land contamination or stability). These matters all need to be resolved upfront in order to determine whether outline permission should be given.

By way of an example, archaeological evaluation is often required to ensure that archaeological remains are appropriately considered in the determining of planning applications. As a minimum, an archaeological Desk Based Assessment is needed within areas identified of Archaeological Constraint. There are large areas of Nottingham, which could potentially be considered as Growth areas, where there is a high potential for archaeological remains of significance to exist. We do not know the location and extents of all archaeological remains in the City because these can only be established through archaeological fieldwork. Archaeological evaluation is essential to ensure such remain can be appropriately investigated and preserved in situ or by record. PPG16, PPS5 and the

NPPF all emphasised the importance of preserving significant remains in situ but without evaluation this is not possible. It is considered that seeking archaeological advice, and undertaking evaluation at an early stage of the planning process does not hinder development and in fact demonstrably saves time and money. Streamlining the development management process will potentially reverse this. Costs of delays as a result of the discovery of archaeological remains during groundworks can create significant delays and in some cases halt a project permanently as a project may no longer be viable. This is particularly the case where human remains are encountered and, in the case of Nottingham, where a cave is found during groundworks because appropriate investigation had not taken place. It is essential that desk based assessments and archaeological evaluation be permitted as a tool to assess the archaeological potential and to de-risk projects for developers. This enables archaeological costs and timescales of work to be fully factored into a project, ensuring it can be completed successfully.

It is also worth noting that any consent regime will need to take account of the proposals in the Building Safety Bill, including the role of the building safety regulatory regime and Gateway 1, which requires submission of a fire strategy as part of applications for planning permission.

Statutory consultees play an important role in identifying measures required to be able to safely issue outline permission. Consequently, it is feared that the proposed approach will either delay consideration of these matters much further back in the process, or hinder the speed of Local Plan adoption if it is all be done upfront before producing the required masterplans and supporting design codes. Without rigorous evaluation, allocated sites may transpire to be undeliverable further down the line and frustrate the objectives that the Government wishes to achieve in terms of a faster planning system.

Furthermore, local councillors currently play a very significant role in offering democratic accountability at the outline planning stage which constitutes a valuable part of the planning process. Crucially, at this stage, citizens and elected members work alongside each other so that nothing of relevance is missed or inadequately addressed. This process increases the scrutiny which emerging proposals receive and ensures the views and wishes of the local population can be put forward or represented. The City Council is very concerned about the reduced opportunity for democratic involvement at this stage.

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

No. There is no clarity given regarding how these consents would work and whether they would work uniformly across the country. Ultimately it is considered that the introduction of more prior approvals, permitted development rights and fast track streamlined consent for pattern book development without democratic accountability and scrutiny will result in poor quality development.

The proposals for renewal areas do not go into much detail about what they might cover and it is conceivable that they will include residential areas, town centres, and employment areas. It is hard to imagine how a Local Plan will be able to definitively consent permission for such a wide range of uses within such a potentially wide area.

Again, the requirements of the Building Safety Bill need to be considered, especially as

how they may apply to permitted development for residential use in 'in scope' buildings.

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

N/a. Nottingham comprises a tightly constrained urban area and does not have the land to be able to deliver a new settlement.

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

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

A number of the suggested proposals are in general supported:

- Shorter/standardised applications
- Digital template for planning notices
- National standards for technical info
- Standardised national conditions

A number of the other proposals are not supported and/or raise the following issues:

- Extensions of Time are commonly requested by developers due to delays in their scheme development/amendment, delays in the provision of technical information, or as a result of contractual discussions with land owners and investors. Imposing firm deadlines may not always be popular with developers and also has the potential to result in perverse decisions driven by timescales. The approach needs to reflect that some schemes do (rightly) take a long time to determine, and that this is in the public interest (e.g. where schemes can be improved given sufficient time). The current 'minors' or 'majors' break down is too simplistic if firmer timetables are to be attached.
- Refund of fee or deemed approval. The possibility of refunding the planning fee if the application is not determined within the timeframe, or for it to be deemed to have been granted, does not reflect the reality of development management, where applicants and the LPA work together to achieve successful outcomes, and negotiate for unacceptable schemes to be improved to make them acceptable. This inevitably extends the timescales involved, but greatly improves the outcomes for all parties and stakeholders. This punitive approach characterises democratic involvement and partnership working in the planning system as negative, where as in fact it is a positive agent in improving development proposals for all concerned.
- Automated decisions are likely to result in a greater number of refusals/appeals.
- Standardised requirements for validation may be a constraint for developers, particularly smaller ones.
- Providing templates for documentation has merit but who would assess whether submissions meet these (the Planning Portal? Additional resource would be required)? Ultimately, it would not necessarily improve the quality of the documentation and the need for someone to assess the submissions would remain.
- Greater delegation – this would be at odds with greater community involvement.
- For appeals, only a tiny proportion of applications are determined in this way. Giving a rebate on fees for successful applicants misses the point that planning

judgments can be finely balanced. It also provides a perverse incentive for an LPA to not refuse development that is unacceptable, due to the threat of loss of income needed to run the planning service, and equally, an incentive for more appeals, as applicants would have little to lose if they appeal, but could get their fee back (no financial penalty unless costs were awarded). The current system of allowing costs where behaviour by appellant or LPA is unreasonable works well, and takes account of the fact that legitimate planning judgments can result in different outcomes.

- Heritage by its nature is often organic and development is bespoke, characterful and defines Local Distinctiveness and as such is difficult to define in a machine readable manner for decision-making purposes. Known presence and absence can be machine readable for scoping purposes but this would merely identify heritage sites as a place where site-specific technical detail and good design would have to be agreed. This would make anywhere with heritage constraints unsuitable as growth areas unless acceptable uses and proposals had been specified (that would need to be adhered to within any development) or alternatively addressed through a full planning application. This is particularly of concern for those entries on the Local List which do not have any further protection through the proposed system.

## **A NEW INTERACTIVE, WEB-BASED MAP STANDARD FOR PLANNING DOCUMENTS**

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

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

More standardisation and access via technology would be welcomed, subject to appropriate resources being available. Nottingham City Council has developed a successful in-house interactive Policies Map and a variety of apps to display information and is supportive of measures in this regard.

## **A STREAMLINED, MORE ENGAGING PLAN-MAKING PROCESS**

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

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

The City Council does not support the arbitrary 30 month timescale set out for the preparation of Local Plans. It takes no account of the significant resource implications which arise from the proposals to categorise land into the Growth, Renewal and Protection areas and the requirements that arise from granting consents at the outset of the Plan preparation process. The City Council urges the Government to consider the true scale of the proposed front-loading process to ensure that local authorities are properly resourced

and expectations clearly set-out in arriving at a confirmed timescale.

It is disappointing that there is a single time frame for all areas. This is over simplistic, and does not recognise that some areas are more complex than others, for example, urban areas with complex multiple issues as opposed to largely rural areas with market towns and villages. It seems unwise also to include the Examination process in this timescale and assume that 9 months will be adequate for every authority, regardless of area specifics. A local planning authority also effectively relinquishes the majority of its control over timescales at the point of submission and is dependent on the capacity of the Planning Inspectorate at that point. We foresee a great call on the resources of the Inspectorate 30 months after the passing of required legislation to enact the proposals and fear that many authorities will fail to make imposed deadlines as a result.

It is alarming to see the real extent of public engagement in the timescales. It appears that public involvement is limited to Stage 1, prior to a Plan being drafted, and at Stage 6, when the Plan has been drafted and submitted to the Inspectorate. The City Council feels that this sits very uncomfortably with the stated aims of the proposed new system. There will be immense anger from our citizens over the proposals with trust permanently eroded as they realise that a plan has been drafted and submitted for examination before they have commented on it. Suggestions to remove the 'right to be heard', if permitted, would only compound feelings of mistrust and criticisms of the profession.

In the context of increased permitted development rights and planning consents being granted via the Growth, Renewal and Protection categorisations in the Local Plan, it appears that opportunities for democratic scrutiny of development at the point that it is tangible and matters most to people is dramatically curtailed. It is well understood that people engage in the planning system when it directly affects them i.e. at a planning application stage, and less so when proposals are notional, as in a local plan. The City Council therefore believes, contrary to the aims of the White Paper, that the proposals risk reducing the opportunity for consultation and public input into planning proposals.

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

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

N/a there has been no take up of Neighbourhood Plans in Nottingham.

It is unclear how Neighbourhood Plans will operate in the Growth and Renewal areas. Removing the power to designate land and set out policies will remove the incentive for local communities to prepare 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?***

Additional resources would be critical to achieving this goal. Whilst the neighbourhood planning grant has been a useful tool, if neighbourhood planning becomes more complex,

potentially covering issues such as local design codes or increasing the use of digital tools then significant additional resources will be needed.

The local authority will also need additional resources to provide proper support.

It is also likely that any neighbourhood forum will require additional expert digital assistance which will need to be funded too. As with Local Plans, it will be essential to ensure that there are still opportunities for their communities to participate through non-digital methods.

### **Proposal 10: A stronger emphasis on build out through planning.**

***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?***

Agree but the delivery mechanism needs to be clarified.

Splitting development sites is the only measure aimed at developers to speed delivery. Given inherent incentives in house builders operating models to gradually release houses to the market, tougher measures are required for this to be effective.

In splitting sites, a legally binding mechanism would be required to force developers to work with other house builders to deliver different house types/tenures.

Delivery would not be resolved through masterplans and design codes alone. These could anticipate phasing and create a greater number of phases but additionally a mechanism would be required to control who parcels of land are sold/allocated to. What would be the sanction for failing to meet delivery rates and who would enforce this?

### **Pillar Two – Planning for beautiful and sustainable places**

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

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

Design codes in themselves can be helpful documents but their extended use raises a number of issues:

- Beauty and design quality are different things (the National Design Guide – Is the development: fit for purpose/function, durable, and does it bring delight. Beauty only focuses on one of these. Additionally, what weight is to be given to sustainability credentials?).
- Depending on their detail and quality, design codes could result in overly standardised developments and would stifle creativity and innovation. Likely to be based on minimum criteria, not a push for excellence.

- Provably popular locally – how would consensus be reached? Whose view should take precedence? At the very least has the potential to be a lengthy process.
- The level of detail required for automated approvals is not realistic. Cannot eliminate the requirement for judgement by skilled professionals.
- The lack of flexibility presented by design codes is likely to be more constraining for developers. Would result in greater number of refusals/appeals.
- There is commonly much divergence from approved masterplans and design codes, requested by developers.
- Would not suit house builders' standard house type approach.
- Design codes are likely to be conservative on the permitted scale/mass/quantum of development.
- Would not in itself improve the quality of schemes coming forward. Need to upskill the private sector and developers' design teams.
- The resource implications arising from this are significant and need addressing. Many LPAs have very limited design expertise, and no specialist staff. There are simply not enough urban designers available to undertake this work.

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

***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. Whilst the chief officer is appropriate as a championing role, it needs to be recognised that good design and place-making should not be reliant on an individual's opinion but rather the emphasis should be on creating a framework that involves team assessment and consensus.

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

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

Agreed. They would however need to be appropriately resourced and governed by a strong performance framework.

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

***Question 20. Do you agree with our proposals for implementing a fast-track for***

## ***beauty?***

This matter is too subjective to enable this process to gain local credibility. Furthermore, as stated previously, beauty and good design are not the same thing.

A beautiful design is only part of the planning consideration, and there may be other factors that require consideration through the decision making process. This proposal needs careful framing to ensure only appropriate development is fast tracked, and there are appropriate checks and balances to provide consideration of other planning matters.

Masterplans and in particular design codes are detailed documents that are very resource intensive and time consuming to produce, particularly for small authorities. A greater degree of funding would be required to cover this.

The skills required to produce (and assess) such documents would require an overhaul of the relevant courses in the higher education system, and sufficient time for the output from this to feed into the profession.

Caution should be applied as we consider that the extension of permitted development rights does not always result in higher quality design. While pattern books can deliver high quality neighbourhoods where there is a commitment to quality objectives and cost is not a factor, they may also inadvertently permit the lowest common denominator development of areas.

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

This proposal is welcomed. Clear and unambiguous policies which are ambitious in terms of carbon reductions are essential, linked to Building Regulations that are not open to interpretation.

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

There is little detail of this proposal. Care is required to ensure that the environment is not placed under greater pressure, nor the need for appropriate mitigation diminished. It is not just the most important habitats and species that need protecting, this sentiment does not sit well with the need to increase biodiversity across the board.

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

The reinforcement of the weight for protected areas is welcomed. It is appreciated that MHCLG are exploring ways to secure new and better ways to secure consents for routine works; however, in practice one kind of routine application can harm significance to one building that would not for another. For example, to renew the electrics in a Georgian property would be unlikely to affect its heritage significance, but to do the same in a Cold War bunker where the electrical infrastructure may have been highly specialised, could be harmful to its significance. This is why we have always looked at each application on its merits in considering the impact on the individual significance or setting of a heritage asset.

Further frontloading of applications through Local Listed Building Consent Orders and Heritage Partnership agreements, with the resources to do so, is supported.

Concern is expressed about giving earned autonomy for routine consents to experienced architectural specialists. Such a system could lead to partisan decision making in favour of paying clients and insufficient scrutiny for works to sensitive heritage assets. The quality of decision making would have to be closely monitored by an ombudsman or similar body to ensure that abuses do not occur. It is suggested that a more cost effective means of ensuring efficient decision-making would be to prioritise the retention and training of specialist heritage conservation staff within Local Authorities. The number of these officers has been in gradual decline for over a decade (according to research carried out by the Institute of Historic Building Conservation), creating a bottleneck for quality decision making on heritage projects across the country.

Regarding the move to locally popular consensus, popularity regarding the significance of heritage assets can be very subjective. Often buildings that people can remember being built will never be popular regardless of the quality of the architecture. Popularity of heritage will often be related to its condition. A greater emotional response will be created in a historic building in poor condition than a modern building. There is therefore a concern that buildings of genuine historic significance might be demolished because of unpopularity now.

It is noted however that proposals in the White Paper lack detail regarding the treatment of archaeological remains. Indeed, archaeology is not referred to at all and where heritage is referred to, this is usually in relation to buildings or historic areas. This is a worrying oversight which will potentially result in substantial harm to the Historic Environment. Further detail is therefore required to ensure that archaeological work is not impeded as a result of any changes which may take place to planning system.

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

The current level of ambition in this regard as expressed through the consultation on the Future Homes standard is not high enough, so further improvements to efficiency standards would be welcome, but they need to be universal and unambiguous to ensure developer buy-in and a level playing field across the country.

## **Pillar Three – Planning for infrastructure and connected places**

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

***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?***

A new charging structure that simplifies the process for the developer and local authorities would be welcomed. However, the implications of a fixed proportion of development value above a set threshold in the context of an urban area needs to be fully understood.

- Would the higher costs for brownfield sites, and abnormal costs be reflected. If based on final value, would a higher quality scheme pay more?
- How does affordable housing sit within the provision? Does it come off development value prior to the levy being recognised?
- The term 'Occupation' needs to be defined
- Monitoring/admin fee is not mentioned – preference to have this up front
- In kind contributions are not mentioned

A disadvantage of the proposal is that it compromises the efficient delivery of infrastructure due to the approach of collecting the Levy after the completion of the development. The delivery of infrastructure to support the development not only has to be funded in advance of the development taking place (as now) but additionally with no certainty as to the amount of Levy that the development will pay. This latter new issue makes forward funding of infrastructure too much of a risk for LPAs, especially in the context of current chronic underfunding of local authorities.

The City Council does not support the complete loss of s106 as not all matters dealt with by s106 are financial and delivered through a Levy budget. Developers are required to perform actions or to carry out things in a required order through the use of s106 agreements. As one example, in Nottingham Management Agreements are secured via s106 to ensure purpose built student accommodation does not negatively impact on the amenity of our communities.

***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?***

The preference would be to set a locally defined rate. There would also need to be more than one rate within a local authority's area. Having a single rate per local authority would have to be set at the lowest possible value and would therefore potentially miss out on achieving higher values in the other areas. Consideration would also be need to be given to how and when the Infrastructure Levy would be reviewed in a local 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?***

Any system should seek to optimise the funding of necessary infrastructure commensurate with not stopping development for *genuine* viability concerns. Assistance will be required to ensure that infrastructure can be delivered in a timely manner for areas that are challenged with low land values, high remediation costs etc. Against this context, proposals to deliver affordable housing through the levy are unconvincing at present. The City Council calls on the Government to back up its claim that the new Infrastructure Levy would yield more than the existing process through detailed modelling, otherwise it is simply speculation.

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

Whilst the City Council can see merit in this approach, the risks and implications need to be fully understood.

Given the current financial crisis for many councils, borrowing to forward fund infrastructure against an uncertain future Levy receipt would represent an insupportably high financial risk. The likely differentials between receipts in higher and lower value parts of the country would exacerbate rather than contribute to 'levelling up'. It would also not be fair for authorities to have to bear the cost of interest charges to support infrastructure that should be delivered by the developer as part of the development.

What happens if market conditions change and schemes are not brought forward? If the Infrastructure Levy is to become payable at the point of occupation, this poses a big risk for local authorities to borrow against because there is the risk that the permitted scheme will not be built out or will be substantially delayed.

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

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

Yes this is strongly supported. The existing CIL system captures changes of use and other development that is permitted through permitted development rights. The Infrastructure Levy should therefore do the same. Permitted development rights should be included due to their additional generated need on local infrastructure. There is no difference in the call upon local infrastructure arising from an office to residential permitted development conversion use than a standard development requiring planning permission and so the different approaches are inequitable.

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

**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?**

The City Council supports both proposals. On site provision is important to create a balanced mix of communities.

**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?**

An in-kind approach is preferred but needs to be set at the right level with appropriate quality standards in place, size and type of units etc. This binary question highlights a fundamental misunderstanding of the evidenced affordable housing needs within Nottingham. An either/or is inappropriate as the affordable housing need in the city is social/affordable rent not discounted purchase.

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

Local authorities should be protected against any overpayment/claw back risk.

**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?**

Appropriate standards need to be in place with local authorities having the ability to determine the size and type of units to meet the needs of the area.

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

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

The City Council supports this proposal in principle. Funds raised through the levy must however continue to be spent on mitigating impacts or delivering policy requirements resulting from the development.

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

An affordable housing 'ring-fence' would be welcomed.

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

**support the implementation of our reforms. In doing so, we propose this strategy will be developed including the following key elements:**

- **The cost of operating the new planning system should be principally funded by the beneficiaries of planning gain – landowners and developers**
- **Planning fees should continue to be set on a national basis and cover at least the full cost of processing the application type**
- **a small proportion of Infrastructure Levy of the income should be earmarked to local planning authorities to cover their overall planning costs**

It is essential that the resourcing crisis within local planning authorities is urgently addressed. This cannot however be seen in isolation to the wider financial crisis facing many councils. As we have comprehensively highlighted in the responses above, the risk of seriously undermining public support for the nation's planning system is significant and this risks being further eroded by a new system being predominantly paid for by the perceived beneficiaries of it.

With recognition of the comment above, the City Council broadly supports Proposal 23 in principle with the following caveats where indicated:

- Greater regulation of pre-application charges.
- Eliminate outdated regulations.
- World leader in digital planning – supported but capital expenditure on IT would be significant. Unrealistic for Local Authorities to meet this.
- Planning system to be paid for by fees and developer contributions – would need to be sufficient to also cover local plans, design codes, enforcement.
- PINS and statutory consultees should be more self-financing through charging – would need to be accompanied by a performance framework in terms of response time and quality.
- Performance framework for LPAs with intervention if necessary.

Furthermore, Nottingham City Council strongly supports the proposals for a comprehensive resources and skills strategy for the planning sector. It will be essential to provide central funding for LPAs to support implementation of the new system. It is critical that the increase in funds needs to be captured as an extension or improvement to planning services beyond retaining existing staff. Against the local government financial crisis, any increases that are required for the delivery of a new planning system will need to be ringfenced for that purpose.

The City Council would also like to highlight that if proposals to cover overall planning costs by using a small proportion of income generated from the Infrastructure Levy is implemented, then the inevitable resulting scenario will be that wildly different contributions will be raised across different parts of the country. This situation is simply inequitable as low value areas will be left with less resources, which would appear at odds with any levelling-up proposals to encourage development in these areas, and the resultant requirements for more capacity in planning departments to enable this. The Government should also be mindful that using even a small proportion of the Levy in this way risks breaking the link to mitigation and so must be looked at robustly.

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

It is suggested that the Government plans to strengthen enforcement powers and sanctions but detail is needed about how this can be achieved in the case of failure to comply with archaeological conditions. Once a development has begun, the archaeology is irreversibly destroyed, and no measures of enforcement can change this. Fines should be charged against those who breach planning conditions regarding archaeology.

### ***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?***

Overall the City Council would like to highlight the importance of ensuring that proposals implemented via the Planning White Paper, or through an enhanced NPPF, undergo an Equalities Impact Assessment. This will ensure that measures aimed at benefiting people with protected characteristics are set out in detail and the full impacts on people with protected characteristics are fully evaluated.

The City Council is concerned that since the focus of the new system in terms of community engagement will be online and digital, there is a danger that the proposals in this regard will have a negative impact for some people with protected characteristics such as the elderly and also the BAME community (who are over-represented in low income and disadvantaged groups in the City and are more likely to be living in poverty), with lower levels of access to a computer or a smart phone, and less confidence and skills in using them to the extent required for consultation on a Local Plan. In addition, there is a suggestion in the White Paper to remove an individual's 'right to be heard' at an Examination. The City Council considers that this will impact on people with protected characteristics such as disabled people who may feel that their best opportunity to participate in a Local Plan Examination is by being physically present.

Proposals to front-load public involvement and limiting it to plan making needs to be fully assessed for its effect on people with protected characteristics. If groups with protected characteristics are less likely to engage with the planning system, will removing the opportunity to be involved at the point that it is most tangible and directly relevant (i.e. at the planning application stage) reduce the number of people with protected characteristics being involved overall. As a Council where half of all councillors are from a BAME background, the City Council would like to be reassured that the removal of such a significant part of the democratic process has been thoroughly assessed from an equalities perspective.

Furthermore, affordable Housing has an important role in seeking to meet the housing needs of people with protected characteristics who cannot meet their housing needs via market housing. Nottingham City Council wishes to see the provision of affordable housing (of a type, tenure, standard, mix, etc that best reflects evidenced needs) protected or enhanced via any proposed changes to planning system and the S.106 regime. Wider proposals by government would see contributions to affordable housing offset by the requirement to grant discounts for First Homes which are not relevant to the affordable housing need in the City. The White Paper does not set out plans for broader investment in social housing and this is a big oversight in planning for the needs of people with protected characteristics.

