



**Town Clerk**

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19 October 2020

Dear Councillor,

A **VIRTUAL** meeting of the **GENERAL PURPOSES COMMITTEE** will be held on **TUESDAY 27 OCTOBER 2020** at **7:00pm**.

The agenda is set out below, and I trust you will be able to attend.

The meeting will be streamed live on YouTube and members of the public are welcome to observe.

View Meeting: <https://www.youtube.com/channel/UCXHye7pCvT-mVBouN3lUTWQ>

Les Trigg  
Town Clerk

**AGENDA**

1. **To receive apologies for absence**
2. **Declarations of Interest**
3. **Requests for Dispensations Received**
4. **Reform of the Planning System: Consultations**

To consider the Town Council's responses to the following Government consultations on proposed reforms of the planning system:

- White Paper: Planning for the Future
- Transparency and Competition: A Call for evidence on data on land control

A copy of the Ministry of Housing, Communities & Local Government consultations papers together with further information on the 'Planning for the Future' White Paper, are attached to the electronic version of the agenda.

A 'Planning for the Future' overview is attached.

Further information can also be accessed via the link:

<https://www.gov.uk/guidance/planning-for-the-future-explained>

Members of the public are welcome to attend the General Purposes Committee meeting as observers and/or to make representations to the committee in accordance with the Council's scheme of public participation. Details of this scheme are displayed in the Council's notice boards and website.



Ministry of Housing,  
Communities &  
Local Government

# White Paper: Planning for the Future



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August 2020

# Contents

<b>Scope of the consultation</b>	<b>4</b>
<b>Ministerial Foreword</b>	<b>6</b>
<b>Introduction</b>	<b>10</b>
<b>Pillar One – Planning for development</b>	<b>22</b>
<b>Pillar Two – Planning for beautiful and sustainable places</b>	<b>38</b>
<b>Pillar Three – Planning for infrastructure and connected places</b>	<b>47</b>
<b>Delivering change</b>	<b>54</b>
<b>What happens next</b>	<b>59</b>
<b>Annex A</b>	<b>62</b>

# Scope of the consultation

Topic of this consultation:	This consultation seeks any views on each part of a package of proposals for reform of the planning system in England to streamline and modernise the planning process, improve outcomes on design and sustainability, reform developer contributions and ensure more land is available for development where it is needed.
Scope of this consultation:	<p>This consultation covers a package of proposals for reform of the planning system in England, covering plan-making, development management, development contributions, and other related policy proposals.</p> <p>Views are sought for specific proposals and the wider package of reforms presented.</p>
Geographical scope:	These proposals relate to England only.
Impact Assessment:	The Government is mindful of its responsibility to have regard to the potential impact of any proposal on the Public Sector Equality Duty. In each part of the consultation we would invite any views on the duty. We are also seeking views on the potential impact of the package as a whole on the Public Sector Equality Duty.

## Basic Information

To:	This consultation is open to everyone. We are keen to hear from a wide range of interested parties from across the public and private sectors, as well as from the general public.
Body/bodies responsible for the consultation:	Ministry of Housing, Communities and Local Government
Duration:	This consultation will last for 12 weeks from 6 August 2020.
Enquiries:	For any enquiries about the consultation please contact <a href="mailto:planningforthefuture@communities.gov.uk">planningforthefuture@communities.gov.uk</a> .
How to respond:	<p>You may respond by going to our website <a href="https://www.gov.uk/government/consultations/planning-for-the-future">https://www.gov.uk/government/consultations/planning-for-the-future</a></p> <p>Alternatively you can email your response to the questions in this consultation to <a href="mailto:planningforthefuture@communities.gov.uk">planningforthefuture@communities.gov.uk</a>.</p> <p>If you are responding in writing, please make it clear which questions you are responding to.</p> <p>Written responses should be sent to:</p>

	<p>Planning for the Future Consultation, Planning Directorate, 3rd Floor, Fry Building, 2 Marsham Street, London, SW1P 4DF</p> <p>When you reply it would be very useful if you confirm whether you are replying as an individual or submitting an official response on behalf of an organisation and include:</p> <ul style="list-style-type: none"> <li>- your name,</li> <li>- your position (if applicable), and</li> <li>- the name of organisation (if applicable).</li> </ul>
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# Foreword from the Prime Minister

I never cease to be amazed by the incredible potential of this country. The vast array of innovations and talent that, when combined with our extraordinary can-do spirit, has brought forth everything from the jet engine to gene editing therapy.

But as we approach the second decade of the 21<sup>st</sup> century that potential is being artificially constrained by a relic from the middle of the 20<sup>th</sup> – our outdated and ineffective planning system.

Designed and built in 1947 it has, like any building of that age, been patched up here and there over the decades.

Extensions have been added on, knocked down and rebuilt according to the whims of whoever's name is on the deeds at the time. Eight years ago a new landlord stripped most of the asbestos from the roof.

But make-do-and-mend can only last for so long and, in 2020, it is no longer fit for human habitation.

Thanks to our planning system, we have nowhere near enough homes in the right places. People cannot afford to move to where their talents can be matched with opportunity. Businesses cannot afford to grow and create jobs. The whole thing is beginning to crumble and the time has come to do what too many have for too long lacked the courage to do – tear it down and start again.

That is what this paper proposes.

Radical reform unlike anything we have seen since the Second World War.

Not more fiddling around the edges, not simply painting over the damp patches, but levelling the foundations and building, from the ground up, a whole new planning system for England.

One that is simpler, clearer and quicker to navigate, delivering results in weeks and months rather than years and decades.

That actively encourages sustainable, beautiful, safe and useful development rather than obstructing it.

That makes it harder for developers to dodge their obligations to improve infrastructure and opens up housebuilding to more than just the current handful of massive corporations.

That gives you a greater say over what gets built in your community.

That makes sure start-ups have a place to put down roots and that businesses great and small have the space they need to grow and create jobs.



And, above all, that gives the people of this country the homes we need in the places we want to live at prices we can afford, so that all of us are free to live where we can connect our talents with opportunity.

Getting homes built is always a controversial business. Any planning application, however modest, almost inevitably attracts objections and I am sure there will be those who say this paper represents too much change too fast, too much of a break from what has gone before.

But what we have now simply does not work.

So let's do better. Let's make the system work for all of us. And let's take big, bold steps so that we in this country can finally build the homes we all need and the future we all want to see.

**The Rt. Hon. Boris Johnson MP**  
**Prime Minister**

# Foreword from the Secretary of State

The outbreak of COVID-19 has affected the economic and social lives of the entire nation. With so many people spending more time at home than ever before, we have come to know our homes, gardens and local parks more intimately. For some this has been a welcome opportunity to spend more time in the place they call home with the people they love. For others – those in small, substandard homes, those unable to walk to distant shops or parks, those struggling to pay their rent, or indeed for those who do not have a home of their own at all – this has been a moment where longstanding issues in our development and planning system have come to the fore.

Such times require decisive action and a plan for a better future. These proposals will help us to build the homes our country needs, bridge the present generational divide and recreate an ownership society in which more people have the security and dignity of a home of their own.

Our proposals seek a significantly simpler, faster and more predictable system. They aim to facilitate a more diverse and competitive housing industry, in which smaller builders can thrive alongside the big players, where all pay a fair share of the costs of infrastructure and the affordable housing existing communities require and where permissions are more swiftly turned into homes.

We are cutting red tape, but not standards. This Government doesn't want to just build houses. We want a society that has re-established powerful links between identity and place, between our unmatched architectural heritage and the future, between community and purpose. Our reformed system places a higher regard on quality, design and local vernacular than ever before, and draws inspiration from the idea of design codes and pattern books that built Bath, Belgravia and Bournville. Our guiding principle will be as Clough Williams-Ellis said to cherish the past, adorn the present and build for the future.

We will build environmentally friendly homes that will not need to be expensively retrofitted in the future, homes with green spaces and new parks at close hand, where tree lined streets are the norm and where neighbours are not strangers.

We are moving away from notices on lampposts to an interactive and accessible map-based online system – placing planning at the fingertips of people. The planning process will be brought into the 21st century. Communities will be reconnected to a planning process that is supposed to serve them, with residents more engaged over what happens in their areas.

While the current system excludes residents who don't have the time to contribute to the lengthy and complex planning process, local democracy and accountability will now be enhanced by technology and transparency.

Reforming the planning system isn't a task we undertake lightly, but it is both an overdue and a timely reform. Millions of jobs depend on the construction sector and in every economic recovery, it has played a crucial role.

This paper sets out how we will reform the planning system to realise that vision and make it more efficient, effective and equitable. I am most grateful to the taskforce of experts who have generously offered their time and expert advice as we have developed our proposals for reform – Bridget Rosewell, Miles Gibson, Sir Stuart Lipton, Nicholas Boys Smith, and Christopher Katkowski QC.

**The Rt. Hon. Robert Jenrick MP**  
**Secretary of State for Housing, Communities and Local Government**

# Introduction

## The challenge we face – an inefficient, opaque process and poor outcomes

- 1.1. The planning system is central to our most important national challenges: tackling head on the shortage of beautiful, high quality homes and places where people want to live and work; combating climate change; improving biodiversity; supporting sustainable growth in all parts of the country and rebalancing our economy; delivering opportunities for the construction sector, upon which millions of livelihoods depend; the ability of more people to own assets and have a stake in our society; and our capacity to house the homeless and provide security and dignity.<sup>1</sup>
- 1.2. To succeed in meeting these challenges, as we must, the planning system needs to be fit for purpose. It must make land available in the right places and for the right form of development. In doing this, it must ensure new development brings with it the schools, hospitals, surgeries and transport local communities need, while at the same time protecting our unmatched architectural heritage and natural environment.
- 1.3. There is some brilliant planning and development. And there are many brilliant planners and developers. But too often excellence in planning is the exception rather than the rule, as it is hindered by several problems with the system as it stands:
  - **It is too complex:** The planning system we have today was shaped by the Town and Country Planning Act 1947, which established planning as nationalised and discretionary in character. Since then, decades of reform have built complexity, uncertainty and delay into the system. It now works best for large investors and companies, and worst for those without the resources to manage a process beset by risk and uncertainty. A simpler framework would better support a more competitive market with a greater diversity of developers, and more resilient places.
  - **Planning decisions are discretionary rather than rules-based:** Nearly all decisions to grant consent are undertaken on a case-by-case basis, rather than determined by clear rules for what can and cannot be done. This makes the English planning system, and those derived from it, an exception internationally, and it has the important consequences of increasing planning risk, pushing up the cost of capital for development and discouraging both innovation and the bringing forward of land for development.<sup>2</sup> Decisions are also often overturned – of the planning applications determined at appeal, 36 per cent of decisions relating to major

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<sup>1</sup> The shortage of affordable homes in and close to the most productive urban centres is a major drag on national productivity – see PwC (2019) “UK Housing market outlook”, available at <https://www.pwc.co.uk/economic-services/ukeo/ukeo-housing-market-july-2019.pdf>.

<sup>2</sup> *The EU Compendium of Spatial Planning Systems and Policies*, European Commission (1997); OECD (2017), *Land-use Planning Systems in the OECD: Country Fact Sheets*; Monk, S., Whitehead, C., Burgess, G. & Tang, C. (2013) *International review of land supply and planning systems*, Joseph Rowntree Foundation.

applications and 30 per cent of decisions relating to minor applications are overturned.<sup>3</sup>

- **It takes too long to adopt a Local Plan:** although it is a statutory obligation to have an up to date Local Plan in place, only 50 per cent of local authorities (as of June 2020) do, and Local Plan preparation takes an average of 7 years (meaning many policies are effectively out of date as soon as they are adopted).
- **Assessments of housing need, viability and environmental impacts are too complex and opaque:** Land supply decisions are based on projections of household and business ‘need’ typically over 15- or 20-year periods. These figures are highly contested and do not provide a clear basis for the scale of development to be planned for. Assessments of environmental impacts and viability add complexity and bureaucracy but do not necessarily lead to environmental improvements nor ensure sites are brought forward and delivered;
- **It has lost public trust** with, for example, a recent poll finding that only seven per cent trusted their local council to make decisions about large scale development that will be good for their local area (49 per cent and 36 per cent said they distrusted developers and local authorities respectively).<sup>4</sup> And consultation is dominated by the few willing and able to navigate the process – the voice of those who stand to gain from development is not heard loudly enough, such as young people. The importance of local participation in planning is now the focus of a campaign by the Local Government Association but this involvement must be accessible to all people;<sup>5</sup>
- **It is based on 20th-century technology:** Planning systems are reliant on legacy software that burden the sector with repetitive tasks. The planning process remains reliant on documents, not data, which reduces the speed and quality of decision-making. The user experience of the planning system discourages engagement, and little use is made of interactive digital services and tools. We have heard that for many developers the worst thing that can happen is for the lead local authority official to leave their job – suggesting a system too dependent on the views of a particular official at a particular time, and not transparent and accessible requirements shaped by communities.
- **The process for negotiating developer contributions to affordable housing and infrastructure is complex, protracted and unclear:** as a result, the outcomes can be uncertain, which further diminishes trust in the system and reduces the ability of local planning authorities to plan for and deliver necessary infrastructure. Over 80 per cent of planning authorities agree that planning

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<sup>3</sup> MHCLG data, period covering 24 months to end March 2019.

<sup>4</sup> YouGov polling commissioned by Grosvenor (2019) – available at <https://www.grosvenor.com/Grosvenor/files/a2/a222517e-e270-4a5c-ab9f-7a7b4d99b1f3.pdf>. An overview of wider evidence and studies on public attitudes to planning and development is available in chapter 9 of the Building Better Building Beautiful Commission’s interim report – available at [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/815495/BBB\\_Commission\\_Interim\\_Report\\_Appendices.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/815495/BBB_Commission_Interim_Report_Appendices.pdf).

<sup>5</sup> See the LGA’s open statement on planning at <https://www.local.gov.uk/keep-planning-local>.

obligations cause delay.<sup>6</sup> It also further increases planning risk for developers and landowners, thus discouraging development and new entrants.

- **There is not enough focus on design, and little incentive for high quality new homes and places:** There is insufficient incentive within the process to bring forward proposals that are beautiful and which will enhance the environment, health, and character of local areas. Local Plans do not provide enough certainty around the approved forms of development, relying on vague and verbal statements of policy rather than the popularly endorsed visual clarity that can be provided by binding design codes. This means that quality can be negotiated away too readily and the lived experience of the consumer ignored too readily.
- **It simply does not lead to enough homes being built,** especially in those places where the need for new homes is the highest. Adopted Local Plans, where they are in place, provide for 187,000 homes per year across England – not just significantly below our ambition for 300,000 new homes annually, but also lower than the number of homes delivered last year (over 241,000).<sup>7</sup> The result of long-term and persisting undersupply is that housing is becoming increasingly expensive, including relative to our European neighbours. In Italy, Germany and the Netherlands, you can get twice as much housing space for your money compared to the UK.<sup>8</sup> We need to address the inequalities this has entrenched.

- 1.4. A poor planning process results in poor outcomes. Land use planning and development control are forms of regulation, and like any regulation should be predictable, and accessible and strike a fair balance between consumers, producers and wider society. But too often the planning system is unpredictable, too difficult to engage with or understand, and favours the biggest players in the market who are best able to negotiate and navigate through the process.
- 1.5. The Government has made significant progress in recent years in increasing house building, with construction rates at a 30-year high in 2019. But these fundamental issues in the system remain, and we are still lagging behind many of our European neighbours. And as the Building Better, Building Beautiful Commission found in its interim report last year, too often what we do build is low quality and considered ugly by local residents.<sup>9</sup>

## A new vision for England's planning system

- 1.6. This paper and the reforms that follow are an attempt to rediscover the original mission and purpose of those who sought to improve our homes and streets in late

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<sup>6</sup> MHCLG (2019) *The Value and Incidence of Developer Contributions in England 2018/19* available at: <https://gov.uk/government/publications/section-106-planning-obligations-and-the-community-infrastructure-levy-in-england-2018-to-2019-report-of-study>

<sup>7</sup> MHCLG data on housing supply available at <https://www.gov.uk/government/statistics/housing-supply-net-additional-dwellings-england-2018-to-2019>.

<sup>8</sup> Data from the Deloitte Property Index, available at [https://www2.deloitte.com/content/dam/Deloitte/cz/Documents/survey/Property\\_Index\\_2016\\_EN.pdf](https://www2.deloitte.com/content/dam/Deloitte/cz/Documents/survey/Property_Index_2016_EN.pdf)

<sup>9</sup> Building Better Building Beautiful Commission (2019) *Creating space for beauty: Interim report*. Available at: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/815493/BBBC\\_Commission\\_Interim\\_Report.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/815493/BBBC_Commission_Interim_Report.pdf)

Victorian and early 20th century Britain. That original vision has been buried under layers of legislation and case law. We need to rediscover it.

- 1.7. Planning matters. Where we live has a measurable effect on our physical and mental health: on how much we walk, on how many neighbours we know or how tense we feel on the daily journey to work or school. Places affect us from the air that we breathe to our ultimate sense of purpose and wellbeing. This is a question of social justice too. Better off people experience more beauty than poorer people and can better afford the rising costs of homes. As a nation we need to do this better. Evidence from the Town and Country Planning Association (TCPA), the Royal Town Planning Institute (RTPI) and the Green Building Council to the Building Better Building Beautiful Commission all emphasised that the evidence on what people want and where they flourish is remarkably consistent.
- 1.8. The Government's planning reforms since 2010 have started to address the underlying issues:
  - last year, we delivered over 241,000 homes, more new homes than at any point in the last 30 years;
  - our reforms to change of use rules have supported delivery of over 50,000 new homes;
  - the rate of planning applications granted has increased since 2010;<sup>10</sup>
  - the National Planning Policy Framework, introduced in 2012, has greatly simplified the previously huge volume of policy;
  - we have introduced a simplified formula for assessing housing need and clearer incentives for local authorities to have up to date plans in place;
  - we have introduced greater democratic accountability over infrastructure planning, giving elected Ministers responsibility for planning decisions about this country's nationally significant energy, transport, water, wastewater and waste projects;
  - we have continued to protect the Green Belt;
  - protections for environmental and heritage assets – such as Areas of Outstanding Natural Beauty (AONBs), and Sites of Special Scientific Interest (SSSIs) and Conservation Areas – continue to protect our treasured countryside and historic places; and
  - we have democratised and localised the planning process by abolishing the top-down regional strategies and unelected regional planning bodies, and empowered communities to prepare a plan for their area, through our introduction of neighbourhood planning – with over 2,600 communities taking advantage of our reforms so far.
- 1.9. But the simple truth is that decades of complexity and political argument have resulted in a system which is providing neither sufficient homes nor good enough

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<sup>10</sup> See

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/875032/Planning\\_Application\\_Statistics\\_October\\_to\\_December\\_2019.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/875032/Planning_Application_Statistics_October_to_December_2019.pdf) (p.3).

new places. Nor is it fairly using the talents and passions of public sector planners who often feel over-worked and under-appreciated, trapped between the urgent need for more homes, an insufficiently competitive market and a policy framework which makes it almost impossible for them to insist upon beautiful and sustainable new homes and places.

- 1.10. The planning system needs to be better at unlocking growth and opportunity in all parts of the country, at encouraging beautiful new places, at supporting the careful stewardship and rebirth of town and city centres, and at supporting the revitalisation of existing buildings as well as supporting new development.
- 1.11. It is also time for the planning system finally to move towards a modernised, open data approach that creates a reliable national picture of what is happening where in planning, makes planning services more efficient, inclusive and consistent, and unlocks the data needed by property developers and the emerging Property Technology (PropTech) sector, to help them make more informed decisions on what to build and where.
- 1.12. We wish to:
  - **be more ambitious for the places we create**, expecting new development to be beautiful and to create a 'net gain' not just 'no net harm';
  - **move the democracy forward** in the planning process and give neighbourhoods and communities an earlier and more meaningful voice in the future of their area as plans are made, harnessing digital technology to make it much easier to access and understand information about specific planning proposals. More engagement should take place at the Local Plan phase;
  - **improve the user experience of the planning system**, to make planning information easier to find and understand and make it appear in the places that discussions are happening, for example in digital neighbourhood groups and social networks. New digital engagement processes will make it radically easier to raise views about and visualise emerging proposals whilst on-the-go on a smart phone;
  - **support home ownership**, helping people and families own their own beautiful, affordable, green and safe homes, with ready access to better infrastructure and green spaces;
  - **increase the supply of land available for new homes where it is needed** to address affordability pressures, support economic growth and the renewal of our towns and cities, and foster a more competitive housing market;
  - **help businesses to expand** with readier access to the commercial space they need in the places they want and supporting a more physically flexible labour market;
  - **support innovative developers and housebuilders**, including small and medium-sized enterprises (SMEs) and self-builders, those looking to build a diverse range of types and tenure of housing, and those using innovative modern methods of construction (MMC);
  - **promote the stewardship and improvement of our precious countryside and environment**, ensuring important natural assets are preserved, the development



potential of brownfield land is maximised, that we support net gains for biodiversity and the wider environment and actively address the challenges of climate change; and

- **create a virtuous circle of prosperity in our villages, towns and cities**, supporting their ongoing renewal and regeneration without losing their human scale, inheritance and sense of place. We need to build more homes at gentle densities in and around town centres and high streets, on brownfield land and near existing infrastructure so that families can meet their aspirations. Good growth will make it easier to level up the economic and social opportunities available to communities.
- 1.13. Underpinning this, we need to modernise the day-to-day operation of the planning system. Residents should not have to rely on planning notices attached to lamp posts, printed in newspapers or posted in libraries. The COVID-19 pandemic has highlighted the need for modern digital planning services that can be accessed from home, and many planners and local authorities have responded brilliantly to this challenge. The planning system must build on this success and follow other sectors in harnessing the benefits which digitisation can bring – real time information, high quality virtual simulation, straightforward end-to-end processes. It should be based on data, not documents, inclusive for all members of society, and stimulate the innovation of the great British design industry.
- 1.14. There are growing calls for change, and for the shape that it should take – based on a bold vision for end-to-end reform, rather than further piecemeal change within the existing system. Recent reports from think tanks and the Government-appointed Building Better, Building Beautiful Commission are the latest prominent voices to have added to the chorus.<sup>11</sup>

## Proposals

- 1.15. We will undertake fundamental reform of the planning system to address its underlying weaknesses and create a system fit for the 21st century. We want to hear your views on our proposals:
- 1.16. **First, we will streamline the planning process with more democracy taking place more effectively at the plan making stage**, and will replace the entire corpus of plan-making law in England to achieve this:
- **Simplifying the role of Local Plans**, to focus on identifying land under three categories - *Growth* areas suitable for substantial development, and where outline approval for development would be automatically secured for forms and types of development specified in the Plan; *Renewal* areas suitable for some development, such as gentle densification; and *Protected* areas where – as the name suggests – development is restricted. This could halve the time it takes to secure planning

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<sup>11</sup> See Policy Exchange (2020) “A planning system for the 20<sup>th</sup> century”, available at: <https://policyexchange.org.uk/publication/rethinking-the-planning-system-for-the-21st-century/>; Centre for Cities (2020) “Planning for the future”, available at: <https://www.centreforcities.org/publication/planning-for-the-future/>; Building Better Building Beautiful Commission (2020) “Living with beauty: promoting health, well-being and sustainable growth”, available at: <https://www.gov.uk/government/publications/living-with-beauty-report-of-the-building-better-building-beautiful-commission>; Create Streets (2018) “From NIMBY to YIMBY”, and (2018) “More Good Homes”.

permission on larger sites identified in plans. We also want to allow local planning authorities to identify sub-areas in their *Growth* areas for self and custom-build homes, so that more people can build their own homes.

- **Local Plans should set clear rules rather than general policies for development.** We will set out general development management policies nationally, with a more focused role for Local Plans in identifying site and area-specific requirements, alongside locally-produced design codes. This would scale back the detail and duplication contained in Local Plans, while encouraging a much greater focus on design quality at the local level. Plans will be significantly shorter in length (we expect a reduction in size of at least two thirds), as they will no longer contain a long list of “policies” of varying specificity – just a core set of standards and requirements for development.
- **Local councils should radically and profoundly re-invent the ambition, depth and breadth with which they engage with communities** as they consult on Local Plans. Our reforms will democratise the planning process by putting a new emphasis on engagement at the plan-making stage. At the same time, we will streamline the opportunity for consultation at the planning application stage, because this adds delay to the process and allows a small minority of voices, some from the local area and often some not, to shape outcomes. We want to hear the views of a wide range of people and groups through this consultation on our proposed reforms.
- **Local Plans should be subject to a single statutory “sustainable development” test**, and unnecessary assessments and requirements that cause delay and challenge in the current system should be abolished. This would mean replacing the existing tests of soundness, updating requirements for assessments (including on the environment and viability) and abolishing the Duty to Cooperate.
- **Local Plans should be visual and map-based, standardised, based on the latest digital technology, and supported by a new standard template.** Plans should be significantly shorter in length, and limited to no more than setting out site- or area-specific parameters and opportunities.
- **Local authorities and the Planning Inspectorate will be required through legislation to meet a statutory timetable (of no more than 30 months in total)** for key stages of the process, and there will be sanctions for those who fail to do so.
- **Decision-making should be faster and more certain**, within firm deadlines, and should make greater use of data and digital technology.
- **We will seek to strengthen enforcement powers and sanctions** so that as we move towards a rules-based system, communities can have confidence those rules will be upheld.
- **We will develop a comprehensive resources and skills strategy for the planning sector to support the implementation of our reforms** – so that, as we bring in our reforms, local planning authorities are equipped to create great communities through world-class civic engagement and proactive plan-making.

1.17. **Second, we will take a radical, digital-first approach to modernise the planning process. This means moving from a process based on documents to a process driven by data. We will:**

- **Support local planning authorities to use digital tools to support a new civic engagement process for local plans and decision-making**, making it easier for people to understand what is being proposed and its likely impact on them through visualisations and other digital approaches. We will make it much easier for people to feed in their views into the system through social networks and via their phones.
- **Insist local plans are built on standardised, digitally consumable rules and data**, enabling accessible interactive maps that show what can be built where. The data will be accessed by software used across the public sector and also by external PropTech entrepreneurs to improve transparency, decision-making and productivity in the sector.
- **Standardise, and make openly and digitally accessible, other critical datasets that the planning system relies on**, including planning decisions and developer contributions. Approaches for fixing the underlying data are already being tested and developed by innovative local planning authorities and we are exploring options for how these could be scaled nationally.
- **Work with tech companies and local authorities to modernise the software used for making and case-managing a planning application**, improving the user-experience for those applying and reducing the errors and costs currently experienced by planning authorities. A new more modular software landscape will encourage digital innovation and will consume and provide access to underlying data. This will help automate routine processes, such as knowing whether new applications are within the rules, making decision making faster and more certain.
- **Engage with the UK PropTech sector through a *PropTech Innovation Council*** to make the most of innovative new approaches to meet public policy objectives, help this emerging sector to boost productivity in the wider planning and housing sectors, and ensure government data and decisions support the sector's growth in the UK and internationally.

1.18. **Third, to bring a new focus on design and sustainability, we will:**

- **Ensure the planning system supports our efforts to combat climate change and maximises environmental benefits**, by ensuring the National Planning Policy Framework targets those areas where a reformed planning system can most effectively address climate change mitigation and adaptation and facilitate environmental improvements.
- **Facilitate ambitious improvements in the energy efficiency standards for buildings** to help deliver our world-leading commitment to net-zero by 2050.
- **Ask for beauty and be far more ambitious for the places we create, expecting new development to be beautiful, and to create a 'net gain' not just 'no net harm'**, with a greater focus on 'placemaking' and 'the creation of beautiful places' within the National Planning Policy Framework.
- **Make it easier for those who want to build beautifully through the introduction of a fast-track for beauty** through changes to national policy and legislation, to

automatically permit proposals for high quality developments where they reflect local character and preferences.

- **Introduce a quicker, simpler framework for assessing environmental impacts and enhancement opportunities**, that speeds up the process while protecting and enhancing England's unique ecosystems.
- **Expect design guidance and codes – which will set the rules for the design of new development – to be prepared locally and to be based on genuine community involvement rather than meaningless consultation**, so that local residents have a genuine say in the design of new development, and ensure that codes have real 'bite' by making them more binding on planning decisions.
- **Establish a new body to support the delivery of design codes in every part of the country**, and give permanence to the campaigning work of the Building Better, Building Beautiful Commission and the life of its co-chairman the late Sir Roger Scruton.
- **Ensure that each local planning authority has a chief officer for design and place-making**, to help ensure there is the capacity and capability locally to raise design standards and the quality of development.
- **Lead by example by updating Homes England's strategic objectives to give greater emphasis to delivering beautiful places.**
- **Protect our historic buildings and areas** while ensuring the consent framework is fit for the 21st century.

1.19. **Fourth, we will improve infrastructure delivery in all parts of the country and ensure developers play their part**, through reform of developer contributions. We propose:

- **The Community Infrastructure Levy and the current system of planning obligations will be reformed as a nationally-set value-based flat rate charge ('the Infrastructure Levy')**. A single rate or varied rates could be set. We will aim for the new Levy to raise more revenue than under the current system of developer contributions, and deliver at least as much – if not more – on-site affordable housing as at present. This reform will enable us to sweep away months of negotiation of Section 106 agreements and the need to consider site viability. We will deliver more of the infrastructure existing and new communities require by capturing a greater share of the uplift in land value that comes with development.
- **We will be more ambitious for affordable housing provided through planning gain**, and we will ensure that the new Infrastructure Levy allows local planning authorities to secure more on-site housing provision.
- **We will give local authorities greater powers to determine how developer contributions are used**, including by expanding the scope of the Levy to cover affordable housing provision to allow local planning authorities to drive up the provision of affordable homes. We will ensure that affordable housing provision supported through developer contributions is kept at least at current levels, and that it is still delivered on-site to ensure that new development continues to support mixed communities. Local authorities will have the flexibility to use this funding to support both existing communities as well as new communities.

- **We will also look to extend the scope of the consolidated Infrastructure Levy and remove exemptions from it** to capture changes of use through permitted development rights, so that additional homes delivered through this route bring with them support for new infrastructure.
- 1.20. **Fifth, to ensure more land is available for the homes and development people and communities need, and to support renewal of our town and city centres,** we propose:
- **A new nationally-determined, binding housing requirement that local planning authorities would have to deliver through their Local Plans.** This would be focused on areas where affordability pressure is highest to stop land supply being a barrier to enough homes being built. We propose that this would factor in land constraints, including the Green Belt, and would be consistent with our aspirations of creating a housing market that is capable of delivering 300,000 homes annually, and one million homes over this Parliament.
  - **To speed up construction where development has been permitted,** we propose to make it clear in the revised National Planning Policy Framework that the masterplans and design codes for sites prepared for substantial development should seek to include a variety of development types from different builders which allow more phases to come forward together. We will explore further options to support faster build out as we develop our proposals for the new planning system.
  - **To provide better information to local communities, to promote competition amongst developers, and to assist SMEs and new entrants to the sector,** we will consult on options for improving the data held on contractual arrangements used to control land.
  - **To make sure publicly-owned land and public investment in development supports thriving places,** we will:
    - ensure decisions on the locations of new public buildings – such as government offices and further education colleges – support renewal and regeneration of town centres; and
    - explore how publicly-owned land disposal can support the SME and self-build sectors.

### **The change we will see – a more engaging, equitable and effective system**

- 1.21. Our proposals will greatly improve the user experience of the planning system, making it fit for the next century.
- 1.22. **Residents** will be able to engage in a much more democratic system that is open to a wider range of people whose voice is currently not heard. Residents will no longer have to rely on planning notices attached to lamp posts, printed in newspapers and posted in libraries to find out about newly proposed developments. Instead people will be able to use their smartphone to give their views on Local Plans and design codes as they are developed, and to see clearer, more visual information about development proposals near them – rather than current planning policies and

development proposals presented in PDF documents, hundreds of pages long. And existing and new residents alike will gain from more affordable, green and beautiful homes near to where they want to live and work.

- 1.23. **Communities** will be able to trust the planning system again as their voice will be heard from the beginning of the process and better use of digital technology will make it radically easier for people to understand what is being proposed in their neighbourhoods and provide new ways to feed their views into the reformed system. Local Plans will be developed over a fixed 30-month period with clear engagement points, rather than the current inconsistent process which takes seven years on average. The Infrastructure Levy will be more transparent than Section 106, and local communities will have more control over how it is spent. Communities will be able to set standards for design upfront through local design codes. And with more land available for homes where they are most needed, and a renewed focus on the beauty of new development, communities will be able to grow organically and sustainably, and development will enhance places for everyone.
- 1.24. **Innovators, entrepreneurs and businesses** will benefit from a planning system that is much more adaptable to the changing needs of the economy. A greater amount of land available near to workplaces, and a more flexible approach to how that land can be used, will make it much easier for firms to set up and expand in the most productive locations – for example, spin-out companies looking to set up near to research-intensive universities. A reformed system that is based upon data, rather than documents will help to provide the data that innovators and entrepreneurs, including the burgeoning PropTech sector, need to build new technology to help improve citizen engagement and planning processes.
- 1.25. **Small builders, housing associations and those building their own home**, will find this system much easier, less costly and quicker to navigate, with more land available for development, and clearer expectations on the types of development permitted, helping them to find development opportunities and use innovative construction methods. With permission for the principle of development secured automatically in many cases, a major hurdle in the process will be removed, taking two to three years out of the process. The system of developer contributions will make it much easier for smaller developers, who will not have to engage in months of negotiation and can instead get on with the job of building. And a shorter, more certain process will remove significant risk from the process, lowering the need for developers to secure long development pipelines and lowering the regulatory barriers to entry that currently exist in the market. A data-led planning system will help developers of all sizes and experience to find the planning information they need to understand what can be built and where, which will provide greater certainty to them and their investors.
- 1.26. **Local authorities**, including Mayoral combined authorities, will be liberated to plan and able to focus on what they do best, with the shackles of current burdensome assessments and negotiations removed. They will be able to give more attention to improving the quality of new development and focus on those large and special sites that need the most consideration. And the Government will support modernisation of the planning process so that routine tasks are automated and decision-making, and plan-making, is improved by better access to the data local authorities need.

- 1.27. **And for our children and grandchildren**, our reforms will leave an inheritance of environmental improvement – with environmental assets protected, more green spaces provided, more sustainable development supported, new homes that are much more energy efficient and new places that can become the heritage of the future, built closer to where people want to live and work to reduce our reliance on carbon-intensive modes of transport.
- 1.28. This consultation document does not address every detailed part of the planning system, its function and objectives, but rather focuses on the key reforms that can help improve the delivery and quality of homes and neighbourhoods, set within our drive towards net-zero greenhouse gas emissions by 2050.
- 1.29. And fixing the planning system alone will not be enough – it will require a collective effort between Government, communities, businesses and developers over the long-term. But fixing the planning system should be the starting point for these efforts.

# Pillar One – Planning for development

## Overview

- 2.1. The starting point for an effective planning system is to establish a clear and predictable basis for the pattern and form of development in an area. The current system of land use planning in England is principally based on local plans, brought forward by local planning authorities on behalf of their communities. But in contrast to planning systems in places like Japan, the Netherlands and Germany, where plans give greater certainty that development is permitted in principle upfront, plans in England are policy-based, with a separate process required to secure permission on the sites that it designates for development.
- 2.2 Local Plans are a good foundation on which to base reform, as they provide a route for local requirements to be identified and assessed, a forum for political debate and for different views on the future of areas to be heard. The National Planning Policy Framework provides a clear basis for those matters that are best set in national policy.
- 2.3 However, change is needed. Layers of assessment, guidance and policy have broadened the scope of Local Plans, requiring a disproportionate burden of evidence to support them. As a result, Local Plans take increasingly long to produce, on average over seven years; have become lengthier documents of increasing complexity, in some cases stretching to nearly 500 pages; are underpinned by vast swathes of evidence base documents, often totalling at least ten times the length of the plan itself, and none of which are clearly linked, standardised, or produced in accessible formats; and include much unnecessary repetition of national policy.
- 2.4 It is difficult for users of the planning system to find the information they need, and when they do, it is difficult to understand. Few people read the array of evidence base documents which accompany plans and these assessments do not sufficiently aid decision-making. Much of this evidence becomes dated very quickly, and production times often render policies out of date as soon as they are adopted. Furthermore, even when the plan is in place, it cannot be relied on as the definitive statement of how development proposals should be handled.
- 2.5 Local Plans should instead be focused on where they can add real value: allocating enough land for development in the right places, giving certainty about what can be developed on that land, making the process for getting permission for development as simple as possible, and providing local communities a genuine opportunity to shape those decisions. To this end, Local Plans should:
  - be based on transparent, clear requirements for local authorities to identify appropriate levels of, and locations for, development that provide certainty and that applicants and communities can easily understand;
  - communicate key information clearly and visually so that plans are accessible and easily understandable, and communities can engage meaningfully in the process of developing them;



- be published as standardised data to enable a strategic national map of planning to be created;
- be developed using a clear, efficient and standard process;
- benefit from a radically and profoundly re-invented engagement with local communities so that more democracy takes place effectively at the plan-making stage; and
- set clear expectations on what is required on land that is identified for development, so that plans give confidence in the future growth of areas and facilitate the delivery of beautiful and sustainable places.

### 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]*

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

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

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]*

### Proposals

2.6. We propose a new role for Local Plans and a new process for making them, by replacing the existing primary and secondary legislation.

### A NEW APPROACH TO PLAN-MAKING

2.7. Local Plans should have a clear role and function, which should be, first, to identify land for development and sites that should be protected; and, second, to be clear about what development can take place in those different areas so that there is greater certainty about land allocated for development and so that there is a faster route to securing permission. They should be assessed against a single statutory “sustainable development” test to ensure plans strike the right balance between environmental, social and economic objectives.

**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*.**

2.8. All areas of land would be put into one of these three categories:

- ***Growth* areas “suitable for substantial development”** – we propose that the term substantial development be defined in policy to remove any debate about this descriptor. We envisage this category would include land suitable for comprehensive development, including new settlements and urban extension sites, and areas for redevelopment, such as former industrial sites or urban regeneration sites. It could also include proposals for sites such as those around universities where there may be opportunities to create a cluster of growth-focused businesses. Sites annotated in the Local Plan under this category would have outline approval for development (see proposal 5 for more detail). Areas of flood risk would be excluded from this category (as would other important constraints), unless any risk can be fully mitigated;
- ***Renewal* areas “suitable for development”** – this would cover existing built areas where smaller scale development is appropriate. It could include the gentle densification and infill of residential areas, development in town centres, and development in rural areas that is not annotated as *Growth* or *Protected* areas, such as small sites within or on the edge of villages. There would be a statutory presumption in favour of development being granted for the uses specified as being suitable in each area. Local authorities could continue to consider the case for resisting inappropriate development of residential gardens;
- **Areas that are *Protected*** – this would include sites and areas which, as a result of their particular environmental and/or cultural characteristics, would justify more stringent development controls to ensure sustainability. This would include areas such as Green Belt, Areas of Outstanding Natural Beauty (AONBs), Conservation Areas, Local Wildlife Sites, areas of significant flood risk and important areas of green space. At a smaller scale it can continue to include gardens in line with existing policy in the National Planning Policy Framework. It would also include areas of open countryside outside of land in *Growth* or *Renewal* areas. Some areas would be defined nationally, others locally on the basis of national policy, but all would be annotated in Local Plan maps and clearly signpost the relevant development restrictions defined in the National Planning Policy Framework.

2.9. This new-style Local Plan would comprise an interactive web-based map of the administrative area where data and policies are easily searchable, with a key and accompanying text. Areas and sites would be annotated and colour-coded in line with their *Growth*, *Renewal* or *Protected* designation, with explanatory descriptions set out in the key and accompanying text, as appropriate to the category.

2.10. In *Growth* and *Renewal* areas, the key and accompanying text would set out suitable development uses, as well as limitations on height and/or density as relevant. These could be specified for sub-areas within each category, determined locally but having regard to national policy, guidance and legislation (including the National Model Design Code and flexibilities in use allowed by virtue of the new Use Classes Order and permitted development). For example, it may be appropriate for some areas to be identified as suitable for higher-density residential development,

or for high streets and town centres to be identified as distinct areas. In *Growth* areas, we would also want to allow sub-areas to be created specifically for self and custom-build homes, and community-led housing developments, to allow a range of housing aspirations to be met and help create diverse and flourishing communities. In the case of self and custom-build homes, local authorities should identify enough land to meet the requirements identified in their self-build and custom housebuilding registers. For *Protected* areas, the key and accompanying text would explain what is permissible by cross-reference to the National Planning Policy Framework.

- 2.11. **Alternative options:** Rather than dividing land into three categories, we are also interested in views on more binary models. One option is to combine *Growth* and *Renewal* areas (as defined above) into one category and to extend permission in principle to all land within this area, based on the uses and forms of development specified for each sub-area within it.
- 2.12. An alternative approach would be to limit automatic permission in principle to land identified for substantial development in Local Plans (*Growth* areas); other areas of land would, as now, be identified for different forms of development in ways determined by the local planning authority (and taking into account policy in the National Planning Policy Framework), and subject to the existing development management process.

#### Question

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

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

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

- 2.13. With the primary focus of plan-making on identifying areas for development and protection, we propose that development management policy contained in the plan would be restricted to clear and necessary site or area-specific requirements, including broad height limits, scale and/or density limits for land included in *Growth* areas and *Renewal* areas, established through the accompanying text. The National Planning Policy Framework would become the primary source of policies for development management; there would be no provision for the inclusion of generic development management policies which simply repeat national policy within Local Plans, such as protections for listed buildings (although we are interested in views on the future of optional technical standards). We propose to turn plans from long lists of general “policies” to specific development standards.
- 2.14. Local planning authorities and neighbourhoods (through Neighbourhood Plans) would play a crucial role in producing required design guides and codes to provide certainty and reflect local character and preferences about the form and appearance of development. This is important for making plans more visual and engaging. These could be produced for a whole local authority area, or for a smaller area or site (as annotated in the Local Plan), or a combination of both. Design guides and codes would ideally be produced on a ‘twin track’ with the Local Plan, either for inclusion within the plan or prepared as supplementary planning documents.

- 2.15. We want to move to a position where all development management policies and code requirements, at national, local and neighbourhood level, are written in a machine-readable format so that wherever feasible, they can be used by digital services to automatically screen developments and help identify where they align with policies and/or codes. This will significantly increase clarity for those wishing to bring forward development, enabling automation of more binary considerations and allowing for a greater focus on those areas where there is likely to be greater subjectivity.
- 2.16. **Alternative options:** Rather than removing the ability for local authorities to include general development management policies in Local Plans, we could limit the scope of such policies to specific matters and standardise the way they are written, where exceptional circumstances necessitate a locally-defined approach. Another alternative would be to allow local authorities a similar level of flexibility to set development management policies as under the current Local Plans system, with the exception that policies which duplicate the National Planning Policy Framework would not be allowed.

### 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.]*

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

- 2.17. This would consider whether the plan contributes to achieving sustainable development in accordance with policy issued by the Secretary of State. The achievement of sustainable development is an existing and well-understood basis for the planning system, and we propose that it should be retained.
- 2.18. A simpler test, as well as more streamlined plans, should mean fewer requirements for assessments that add disproportionate delay to the plan-making process.
- 2.19. Specifically:
- we propose to abolish the Sustainability Appraisal system and develop a simplified process for assessing the environmental impact of plans, which would continue to satisfy the requirements of UK and international law and treaties (see our proposals under Pillar Two);
  - the Duty to Cooperate test would be removed (although further consideration will be given to the way in which strategic cross-boundary issues, such as major infrastructure or strategic sites, can be adequately planned for, including the scale at which plans are best prepared in areas with significant strategic challenges); and
  - a slimmed down assessment of deliverability for the plan would be incorporated into the “sustainable development” test.
- 2.20. Plans should be informed by appropriate infrastructure planning, and sites should not be included in the plan where there is no reasonable prospect of any

infrastructure that may be needed coming forward within the plan period. Plan-making policies in the National Planning Policy Framework will make this clear.

- 2.21. The new-style digital Local Plan would also help local planning authorities to engage with strategic cross-boundary issues and use data-driven insights to assess local infrastructure needs to help decide what infrastructure is needed and where it should be located.
- 2.22. **Alternative option:** Rather than removing the existing tests of soundness, an alternative option could be to reform them in order to make it easier for a suitable strategy to be found sound. For example, the tests could become less prescriptive about the need to demonstrate deliverability. Rather than demonstrating deliverability, local authorities could be required to identify a stock of reserve sites which could come forward for development if needed.

### 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?

**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.**

- 2.23. Local Plans will need to identify areas to meet a range of development needs – such as homes, businesses and community facilities – for a minimum period of 10 years. This includes land needed to take advantage of local opportunities for economic growth, such as commercial space for spin-out companies near to university research and development facilities, or other high productivity businesses.
- 2.24. Debates about housing numbers tend to dominate this process, and a standard method for setting housing requirements would significantly reduce the time it takes to establish the amount of land to release in each area. This has historically been a time-consuming process which ultimately has not led to enough land being released where it is most needed (as reflected by worsening affordability). A standard requirement would differ from the current system of local housing need in that it would be binding, and so drive greater land release.
- 2.25. It is proposed that the standard method would be a means of distributing the national housebuilding target of 300,000 new homes annually, and one million homes by the end of the Parliament, having regard to:

- the size of existing urban settlements (so that development is targeted at areas that can absorb the level of housing proposed);
- the relative affordability of places (so that the least affordable places where historic under-supply has been most chronic take a greater share of future development);
- the extent of land constraints in an area to ensure that the requirement figure takes into account the practical limitations that some areas might face, including the presence of designated areas of environmental and heritage value, the Green Belt and flood risk. For example, areas in National Parks are highly desirable and housing supply has not kept up with demand; however, the whole purpose of National Parks would be undermined by multiple large scale housing developments so a standard method should factor this in;
- the opportunities to better use existing brownfield land for housing, including through greater densification. The requirement figure will expect these opportunities to have been utilised fully before land constraints are taken into account;
- the need to make an allowance for land required for other (non-residential) development; and
- inclusion of an appropriate buffer to ensure enough land is provided to account for the drop off rate between permissions and completions as well as offering sufficient choice to the market.

- 2.26. The standard method would make it the responsibility of individual authorities to allocate land suitable for housing to meet the requirement, and they would continue to have choices about how to do so: for example through more effective use of existing residential land, greater densification, infilling and brownfield redevelopment, extensions to existing urban areas, or new settlements. The existing policy for protecting the Green Belt would remain. We also propose that it would be possible for authorities to agree an alternative distribution of their requirement in the context of joint planning arrangements. In particular, it may be appropriate for Mayors of combined authorities to oversee the strategic distribution of the requirement in a way that alters the distribution of numbers, and this would be allowed for.
- 2.27. In the current system the combination of the five-year housing land supply requirement, the Housing Delivery Test and the presumption in favour of sustainable development act as a check to ensure that enough land comes into the system. Our proposed approach should ensure that enough land is planned for, and with sufficient certainty about its availability for development, to avoid a continuing requirement to be able to demonstrate a five-year supply of land. However, having enough land supply in the system does not guarantee that it will be delivered, and so we propose to maintain the Housing Delivery Test and the presumption in favour of sustainable development as part of the new system.
- 2.28. **Alternative option:** It would be possible to leave the calculation of how much land to include in each category to local decision, but with a clear stipulation in policy that this should be sufficient to address the development needs of each area (so far as possible subject to recognised constraints), taking into account market signals indicating the degree to which existing needs are not being met. As now, a standard method could be retained to underpin this approach in relation to housing; and it

would be possible to make changes to the current approach that ensure that meeting minimum need is given greater weight to make sure sufficient land comes forward. However, we do not think that this approach would carry the same benefits of clarity and simplicity as our preferred option, and would also require additional safeguards to ensure that adequate land remains available, especially once the assessment of housing need has been translated into housing requirements. We would, therefore, propose to retain a five-year housing land supply requirement with this approach.

- 2.29. We have published a separate consultation on proposed changes to the standard method for assessing local housing need which is currently used in the process of establishing housing requirement figures. The future application of the formula proposed in the revised standard method consultation will be considered in the context of the proposals set out here. In particular, the methodology does not yet adjust for the land constraints, including Green Belt. We will consider further the options for doing this and welcome proposals.

### 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.]*

### **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.**

- 2.30. There will therefore be no need to submit a further planning application to test whether the site can be approved. Where the Local Plan has identified land for development, planning decisions should focus on resolving outstanding issues – not the principle of development.
- 2.31. In areas suitable for substantial development (*Growth* areas) an outline permission for the principle of development would be conferred by adoption of the Local Plan. Further details would be agreed and full permission achieved through streamlined and faster consent routes which focus on securing good design and addressing site-specific technical issues.
- 2.32. Detailed planning permission could be secured in one of three ways:
- a reformed reserved matters process for agreeing the issues which remain outstanding;

- a Local Development Order prepared by the local planning authority for the development which could be prepared in parallel with the Local Plan and be linked to a master plan and design codes; or
  - for exceptionally large sites such as a new town where there are often land assembly and planning challenges, we also want to explore whether a Development Consent Order under the Nationally Significant Infrastructure Projects regime could be an appropriate route to secure consents. Similarly, we will consider how the planning powers for Development Corporations can be reformed to reflect this new framework.
- 2.33. In areas suitable for development (*Renewal* areas), there would be a general presumption in favour of development established in legislation (achieved by strengthening the emphasis on taking a plan-led approach, with plans reflecting the general appropriateness of these areas for development). Consent for development would be granted in one of three ways:
- for pre-specified forms of development such as the redevelopment of certain building types, through a new permission route which gives an automatic consent if the scheme meets design and other prior approval requirements (as discussed further under the fast-track to beauty proposals set out under Pillar Two);
  - for other types of development, a faster planning application process where a planning application for the development would be determined in the context of the Local Plan description, for what development the area or site is appropriate for, and with reference to the National Planning Policy Framework; or
  - a Local or Neighbourhood Development Order.
- 2.34. In both the *Growth* and *Renewal* areas it would still be possible for a proposal which is different to the plan to come forward (if, for example, local circumstances had changed suddenly, or an unanticipated opportunity arose), but this would require a specific planning application. We expect this to be the exception rather than the rule: to improve certainty in the system, it will be important for everyone to have confidence that the plan will be the basis for decisions, and so we intend to strengthen the emphasis on a plan-led approach in legislation (alongside giving appropriate status to national planning policy for general development management matters).
- 2.35. In areas where development is restricted (*Protected* areas) any development proposals would come forward as now through planning applications being made to the local authority (except where they are subject to permitted development rights or development orders), and judged against policies set out in the National Planning Policy Framework.
- 2.36. We will consider the most effective means for neighbours and other interested parties to address any issues of concern where, under this system, the principle of development has been established leaving only detailed matters to be resolved.
- 2.37. Separate to these reforms, we also intend to consolidate other existing routes to permission which have accumulated over time, including simplified planning zones, enterprise zones and brownfield land registers.

## 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 / Not sure. Please provide supporting statement.]*

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

2.38. For all types of planning applications regardless of the category of land, we want to see a much more streamlined and digitally enabled end to end process which is proportionate to the scale and nature of the development proposed, to ensure decisions are made faster. The well-established time limits of eight or 13 weeks for determining an application from validation to decision should be a firm deadline – not an aspiration which can be got around through extensions of time as routinely happens now.

2.39. To achieve this, we propose:

- the greater digitalisation of the application process to make it easier for applicants, especially those proposing smaller developments, to have certainty when they apply and engage with local planning authorities. In particular, the validation of applications should be integrated with the submission of the application so that the right information is provided at the start of the process. For Spending Review, the Government will prepare a specific, investable proposal for modernising planning systems in local government;
- A new, more modular, software landscape to encourage digital innovation and provide access to underlying data. This will help automate routine processes, such as knowing whether new applications are within the rules, which will support faster and more certain decision-making. We will work with tech companies and local planning authorities to modernise the software used for case-managing a planning application to improve the user-experience for those applying and reduce the errors and costs currently experienced by planning authorities;
- shorter and more standardised applications. The amount of key information required as part of the application should be reduced considerably and made machine-readable. A national data standard for smaller applications should be created. For major development, beyond relevant drawings and plans, there should only be one key standardised planning statement of no more than 50 pages to justify the development proposals in relation to the Local Plan and National Planning Policy Framework;

- data-rich planning application registers will be created so that planning application information can be easily found and monitored at a national scale, and new digital services can be built to help people use this data in innovative ways
- data sets that underpin the planning system, including planning decisions and developer contributions, need to be standardised and made open and digitally accessible;
- a digital template for planning notices will be created so that planning application information can be more effectively communicated and understood by local communities and used by new digital services;
- greater standardisation of technical supporting information, for instance about local highway impacts, flood risk and heritage matters. We envisage design codes will help to reduce the need for significant supplementary information, but we recognise there may still need to be site specific information to mitigate wider impacts. For these issues, there should be clear national data standards and templates developed in conjunction with statutory consultees;
- clearer and more consistent planning conditions, with standard national conditions to cover common issues;
- a streamlined approach to developer contributions, which is discussed further under Pillar Three;
- the delegation of detailed planning decisions to planning officers where the principle of development has been established, as detailed matters for consideration should be principally a matter for professional planning judgment.

2.40. We also believe there should be a clear incentive on the local planning authority to determine an application within the statutory time limits. This could involve the automatic refund of the planning fee for the application if they fail to determine it within the time limit. But we also want to explore whether some types of applications should be deemed to have been granted planning permission if there has not been a timely determination, to ensure targets are met and local authorities keep to the time limit in the majority of cases. We particularly want to ensure that the facilities and infrastructure that communities value, such as schools, hospitals and GP surgeries, are delivered quickly through the planning system.

2.41. There will remain a power to call in decisions by the Secretary of State and for applicants to appeal against a decision by a local planning authority. However, by ensuring greater certainty about the principle of development in Local Plans, we expect to see fewer appeals being considered by the Planning Inspectorate. For those that do go to appeal, we want to ensure the appeals process is faster, with the Inspectorate more digitally responsive and flexible. And to promote proper consideration of applications by planning committees, where applications are refused, we propose that applicants will be entitled to an automatic rebate of their planning application fee if they are successful at appeal.

#### Question

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

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

- 2.42. Planning documentation should reflect this simplified role for Local Plans and should support community engagement.

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

- 2.43. Interactive, map-based Local Plans will be built upon data standards and digital principles. To support local authorities in developing plans in this new format, we will publish a guide to the new Local Plan system and data standards and digital principles, including clearer expectations around the more limited evidence that will be expected to support “sustainable” Local Plans, accompanied by a “model” template for Local Plans and subsequent updates, well in advance of the legislation being brought into force. This will support standardisation of Local Plans across the country. The text-based component of plans should be limited to spatially-specific matters and capable of being accessible in a range of different formats, including through simple digital services on a smartphone.
- 2.44. To support open access to planning documents and improve public engagement in the plan-making process, plans should be fully digitised and web-based following agreed web standards rather than document based. This will allow for any updates to be published instantaneously and makes it easier to share across all parties and the wider public. Those digital plans should be carefully designed with the user in mind and to ensure inclusivity, so that they can be accessed in different formats, on different devices, and are accessible and understandable by all. Geospatial information associated with plans, such as sites and areas, should also be standardised and made openly available online. Taken together, these changes will enable a digital register of planning policies to be created so that new digital services can be built using this data, and this will also enable any existing or future mapping platforms to access and visualise Local Plans. This will make it easier for anyone to identify what can be built where. The data will be accessed by software used across the public sector and also by external PropTech entrepreneurs to improve transparency, decision-making and productivity in the sector. There should also be a long-term aim for any data produced to support Local Plans to be open and accessible online in machine-readable format and linked to the relevant policies and areas.
- 2.45. By shifting plan-making processes from documents to data, new digital civic engagement processes will be enabled. making it easier for people to understand what is being proposed where and how it will affect them. These tools have the potential to transform how communities engage with Local Plans, opening up new ways for people to feed their views into the system, including through social networks and via mobile phones. Early pilots from local planning authorities using emerging digital civic engagement tools have shown increased public participation from a broader audience, with one PropTech SME reporting that 70% of their users are under the age of 45<sup>12</sup>.

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<sup>12</sup> For more information see <https://www.commonplace.is/>

- 2.46. To encourage this step-change, we want to support local authorities to radically rethink how they produce their Local Plans, and profoundly re-invent the ambition, depth and breadth with which they engage with communities. We will set up a series of pilots to work with local authorities and tech companies (the emerging ‘PropTech’ sector) to develop innovative solutions to support plan-making activities and make community involvement more accessible and engaging. This could include measures to improve access to live information and data or the use of 3D visualisations and other tools to support good community engagement.

#### Question

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

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

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

- 2.47. The average time taken from plan publication to adoption rose from an average of 450 days in 2009 to 815 days in 2019. There is currently no statutory requirement around timescales for key stages of the 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.**

- 2.48. Under the current system, it regularly takes over a decade for development sites to go through the Local Plan process and receive outline permission. Under our proposals, this would be shortened to 30 months, although we expect many local authorities could do this in a shorter time and we would encourage them to do so where this is practicable. We propose that the process covers five stages, with meaningful public engagement at two stages:
- Stage 1 [6 months]: The local planning authority “calls for” suggestions for areas under the three categories, including comprehensive “best in class” ways of achieving public involvement at this plan-shaping stage for where development should go and what it should look like.
  - Stage 2 [12 months]: The local planning authority draws up its proposed Local Plan, and produces any necessary evidence to inform and justify the plan. “Higher-risk” authorities will receive mandatory Planning Inspectorate advisory visits, in order to ensure the plan is on track prior to submission.
  - Stage 3 [6 weeks]: The local planning authority simultaneously
    - (i) submits the Plan to the Secretary of State for Examination together with a Statement of Reasons to explain why it has drawn up its plan as it has; and
    - (ii) publicises the plan for the public to comment on. Comments seeking change must explain how the plan should be changed and why. Again, this process would embody ‘best in class’ ways of ensuring public involvement. Responses will have a word count limit.
  - Stage 4 [9 months]: A planning inspector appointed by the Secretary of State considers whether the three categories shown in the proposed Local Plan are

“sustainable” as per the statutory test and accompanying national guidance and makes binding changes which are necessary to satisfy the test. The plan-making authority and all those who submitted comments would have the right to be “heard” by the inspector (whether face to face, by video, phone or in writing – all at the inspector’s discretion). The inspector’s report can, as relevant, simply state agreement with the whole or parts of the council’s Statement of Reasons, and/or comments submitted by the public.

- Stage 5 [6 weeks]: Local Plan map, key and text are finalised, and come into force.
- 2.49. Taken together, the effect of these reforms would be to greatly simplify and shorten the plan-making and development process, ensuring more land comes through the system and does so at pace.
- 2.50. To support the transition to the new system, we propose a statutory duty for local authorities to adopt a new Local Plan by a specified date – either 30 months from the legislation being brought into force, or 42 months for local planning authorities who have adopted a Local Plan within the previous three years or where a Local Plan has been submitted to the Secretary of State for examination. In the latter case, the 42 month period would commence from the point at which the legislation is brought into force, or upon adoption of the most recent plan, whichever is later.
- 2.51. This should be accompanied by a requirement for each planning authority to review its Local Plan at least every five years. Reviews should be undertaken sooner than five years where there has been a significant change in circumstances, for instance where issues with land supply have been identified through regular monitoring. Where a review concludes that an update is required, then the same 30-month deadline would apply although there would be an expectation that in many cases an update could be completed more quickly.
- 2.52. Local planning authorities that fail to do what is required to get their plan in place, or keep it up to date, would be at risk of government intervention. A range of intervention options will be available, including the issuing of directions and preparation of a plan in consultation with local people. Decisions on intervention would also have regard to:
- the level of housing requirement in the area;
  - the planning context of the area, including any co-operation to get plans in place across local planning authority boundaries;
  - any exceptional circumstances presented by the local planning authority.
- 2.53. **Alternative options:** The existing examination process could be reformed in order to speed up the process. For instance, the automatic ‘right to be heard’ could be removed so that participants are invited to appear at hearings at the discretion of the inspector. Certain Local Plans, that are less complex or controversial, could also be examined through written representations only, as is usually the case with Neighbourhood Plans at present.
- 2.54. A further alternative could be to remove the Examination stage entirely, instead requiring Local Planning Authorities to undertake a process of self-assessment against set criteria and guidance. To supplement this, the Planning Inspectorate could be utilised to audit a certain number of completed plans each year in order to

assess whether the requirements of the statutory sustainability test had been met. However, there is a risk that this option wouldn't provide sufficient scrutiny around whether plans meet the necessary legal and policy tests.

### 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.]*

### **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**

- 2.55. Since statutory Neighbourhood Plans became part of the system in 2011, over 2,600 communities have started the process of neighbourhood planning to take advantage of the opportunity to prepare a plan for their own areas – and over 1,000 plans have been successfully passed at referendum. They have become an important tool in helping to 'bring the democracy forward' in planning, by allowing communities to think proactively about how they would like their areas to develop.
- 2.56. Therefore, we think Neighbourhood Plans should be retained in the reformed planning system, but we will want to consider whether their content should become more focused to reflect our proposals for Local Plans, as well as the opportunities which digital tools and data offer to support their development and improve accessibility for users. By making it easier to develop Neighbourhood Plans we wish to encourage their continued use and indeed to help spread their use further, particularly in towns and cities. We are also interested in whether there is scope to extend and adapt the concept so that very small areas – such as individual streets – can set their own rules for the form of development which they are happy to see.
- 2.57. Digital tools have significant potential to assist the process of Neighbourhood Plan production, including through new digital co-creation platforms and 3D visualisation technologies to explore proposals within the local context. We will develop pilot projects and data standards which help neighbourhood planning groups make the most of this potential.

### 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?

### **SPEEDING UP THE DELIVERY OF DEVELOPMENT**

- 2.58. Our plans for a simpler and faster planning process need to be accompanied by a stronger emphasis on the faster delivery of development, especially for *Growth* areas where substantial development has been permitted. If local communities

through the new Local Plan process have identified sites for substantial development over the next ten years and developers have secured planning consents, there should be a presumption that these sites will be built out quickly. But as Rt. Hon. Sir Oliver Letwin found in his Independent Review of Build Out Rates in 2018, the build out of large residential developments can be slow due to low market absorption rates, with some sites taking over 20 years to complete.

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

2.59. To address this, we propose to make it clear in the revised National Planning Policy Framework that the masterplans and design codes for sites prepared for substantial development (discussed under Pillar Two) should seek to include a variety of development types by different builders which allow more phases to come forward together. We will explore further options to support faster build out as we develop our proposals for the new planning system.

**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.]*

# Pillar Two – Planning for beautiful and sustainable places

## Overview

- 3.1. We have set out how a simpler planning process could improve certainty about what can be built where, as well as offering greater flexibility in the use of land to meet our changing economic and social needs. But improving the process of planning is only the starting point – we want to ensure that we have a system in place that enables the creation of beautiful places that will stand the test of time, protects and enhances our precious environment, and supports our efforts to combat climate change and bring greenhouse gas emissions to net-zero by 2050. Recent research from the Royal Town Planning Institute has set out the vital contribution that planning can make to a sustainable and inclusive recovery.<sup>13</sup>
- 3.2. To do this, planning should be a powerful tool for creating visions of how places can be, engaging communities in that process and fostering high quality development: not just beautiful buildings, but the gardens, parks and other green spaces in between, as well as the facilities which are essential for building a real sense of community. It should generate net gains for the quality of our built and natural environments - not just 'no net harm'.
- 3.3. As the report of the Building Better, Building Beautiful Commission has shown, all too often that potential has fallen short. Too many places built during recent decades fail to reflect what is special about their local area or create a high quality environment of which local people can be proud. The Commission has played an invaluable role not just in highlighting the deficiencies, but in setting out a wide range of recommendations for addressing them. We will respond fully to the Commission's report in the autumn, but there are important aspects that we want to highlight now, as being integral to our proposals for what a revised planning system can achieve.

### 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]*

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<sup>13</sup> RTPI (2020) "Plan the world we need: The contribution of planning to a sustainable, resilient and inclusive recovery", available at: <https://www.rtpi.org.uk/research/2020/june/plan-the-world-we-need/>.



## Proposals

### CREATING FRAMEWORKS FOR QUALITY

- 3.4. To deliver our vision, it is important for the planning system to set clear expectations for the form of development which we expect to see in different locations. It should do so in ways which reflect local character and community preferences, and the types of buildings and places that have stood the test of time; but it should also address modern lifestyles, facilitate modern methods of construction (and its associated benefits for efficiency, build quality and the environment) and the need to create places that are both durable and sustainable. History provides many examples of how we can do this well – including Georgian terraces and Victorian mansion blocks – and we should learn from what has worked in the past.
- 3.5. Our National Design Guide, published in October last year, illustrates how well-designed places that are beautiful, enduring and successful can be achieved in practice. It is a vital starting point, defining ten characteristics of successful places and the ingredients which can deliver these. However, to provide as much clarity as possible for applicants and communities and provide the basis for ‘fast-tracking’ decisions on design, broad principles need to be turned into more specific standards.
- 3.6. To address this challenge, this autumn we will publish a National Model Design Code to supplement the guide, setting out more detailed parameters for development in different types of location: issues such as the arrangement and proportions of streets and urban blocks, positioning and hierarchy of public spaces, successful parking arrangements, placement of street trees, and high quality cycling and walking provision, in line with our wider vision for cycling and walking in England.<sup>14</sup> It will be accompanied by worked examples, and complement a revised and consolidated Manual for Streets.

**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.**

- 3.7. As national guidance, we will expect the National Design Guide, National Model Design Code and the revised Manual for Streets to have a direct bearing on the design of new communities. But to ensure that schemes reflect the diverse character of our country, as well as what is provably popular locally, it is important that local guides and codes are prepared wherever possible. These play the vital role of translating the basic characteristics of good places into what works locally, and can already be brought forward in a number of ways: by local planning authorities to supplement and add a visual dimension to their Local Plans; through the work of neighbourhood planning groups; or by applicants in bringing forward proposals for significant new areas of development.

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<sup>14</sup> Our plan for cycling and walking is available at <https://www.gov.uk/government/publications/cycling-and-walking-plan-for-england>.

- 3.8. We propose that these different routes for bringing forward design guides and codes should remain, although in all cases it will be essential that they are prepared with effective inputs from the local community, considering empirical evidence of what is popular and characteristic in the local area. To underpin the importance of this, we intend to make clear that designs and codes should only be given weight in the planning process if they can demonstrate that this input has been secured. And, where this is the case, we will also make clear that decisions on design should be made in line with these documents. Where locally-produced guides and codes are not in place, we also propose to make clear in policy that the National Design Guide, National Model Design Code and Manual for Streets should guide decisions on the form of development.

#### 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.]*

- 3.9. The Building Better, Building Beautiful Commission recommended several other changes to the National Planning Policy Framework that can support the planning system's role in fostering better buildings, places and settlements, and we will consult on changes which reflect these recommendations in the autumn.

**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.**

- 3.10. The vision which we have set out will require a step-change in the design skills available to many local planning authorities, as well as the right prioritisation and leadership across the sector. We recognise that this will not happen overnight, and that authorities will need support.
- 3.11. We will explore the options for establishing a new expert body which can help authorities make effective use of design guidance and codes, as well as performing a wider monitoring and challenge role for the sector in building better places. Different models exist for how this could be taken forward - such as a new arms-length body reporting to Government, a new centre of expertise within Homes England, or reinforcing the existing network of architecture and design centres. Whatever model is adopted, we envisage that it would be able to draw on the expertise of recognised experts with a range of skills, drawn from across the built environment sector. Should the final proposals lead to the creation of new central government arm's-length body, then the usual, separate government approval process would apply for such entities.
- 3.12. We will also bring forward proposals later this year for improving the resourcing of planning departments more broadly; and our suggestions in this paper for streamlining plan-making will allow some re-focusing of professional skills. However, effective leadership within authorities will also be crucial. To drive a strong vision for what each place aspires to, and ensure this is integrated across council functions, we believe that each authority should appoint a chief officer for

design and place-making, as recommended by the Building Better, Building Beautiful Commission.

**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.]*

**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.**

- 3.13. We are committed to taking a leadership role in the delivery of beautiful and well-designed homes and places, which embed high environmental standards. The Building Better, Building Beautiful Commission recommended that Homes England should attach sufficient value to design as well as price, and give greater weight to design quality in its work.
- 3.14. The Government supports this recommendation and recognises that the work of Homes England is an important route through which we can lead by example. Homes England have already taken steps to champion design quality in their land disposals programme, through implementation of a design quality assessment approach, with a minimum standard which must be achieved for a proposal to progress.
- 3.15. However, we recognise that there is an opportunity to go further, and we will engage Homes England, as part of the forthcoming Spending Review process, to consider how its objectives might be strengthened to give greater weight to design quality, and assess how design quality and environmental standards can be more deeply embedded in all Homes England's activities and programmes of work.

**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.]*

**A FAST-TRACK FOR BEAUTY**

- 3.16. One of the important propositions of the Building Better, Building Beautiful Commission is that there should be a 'fast-track for beauty'. Where proposals come forward which comply with pre-established principles of what good design looks like (informed by community preferences), then it should be possible to expedite development through the planning process. This should incentivise attractive and popular development, as well as helping to relieve pressure on planning authorities when assessing proposals.

**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.**

- 3.17. We propose to do this in three ways. In the first instance, through updating the National Planning Policy Framework, we will make clear that schemes which comply with local design guides and codes have a positive advantage and greater certainty about their prospects of swift approval.
- 3.18. Second, where plans identify areas for significant development (*Growth* areas), we will legislate to require that a masterplan and site-specific code are agreed as a condition of the permission in principle which is granted through the plan. This should be in place prior to detailed proposals coming forward, to direct and expedite those detailed matters. These masterplans and codes could be prepared by the local planning authority alongside or subsequent to preparing its plan, at a level of detail commensurate with the size of site and key principles to be established. For example, a set of simple 'co-ordinating codes' of the sort endorsed by the Building Better, Building Beautiful Commission could set some initial key parameters for the site layout. Where sites are expected to come forward in the near future, more developed masterplans or codes, prepared by the local planning authority or site promoter, will provide greater certainty.
- 3.19. Third, we also propose to legislate to widen and change the nature of permitted development, so that it enables popular and replicable forms of development to be approved easily and quickly, helping to support 'gentle intensification' of our towns and cities, but in accordance with important design principles. There is a long history – in this country and elsewhere – of 'pattern books' being used to articulate standard building types, options and associated rules (such as heights and set-backs). They have helped to deliver some of our most popular and successful places, and in a way which makes it relatively easy for smaller development companies to enter the market. We want to revive this tradition, in areas suitable for development (*Renewal* areas), by allowing the pre-approval of popular and replicable designs through permitted development. The benefits are much more than fast delivery of proven popular designs – it will foster innovation and support industrialisation of housebuilding, enabling modern methods of construction to be developed and deployed at scale.
- 3.20. To take this approach forward, we intend to develop a limited set of form-based development types that allow the redevelopment of existing residential buildings where the relevant conditions are satisfied – enabling increased densities while maintaining visual harmony in a range of common development settings (such as semi-detached suburban development). These would benefit from permitted development rights relating to the settings in which they apply. Prior approval from the local planning authority would still be needed for aspects of the design to ensure the development is right for its context (such as materials), as well as for other important planning considerations such as avoidance of flood risk and securing safe access. To enable further tailoring of these patterns to local character and preferences, we also propose that local planning authorities or neighbourhood planning groups would be able to use local orders to modify how the standard types apply in their areas, based on local evidence of what options are most popular with the wider public.

- 3.21. This proposal will require some technical development and testing, so we will develop a pilot programme to test the concept. Where we are taking forward existing schemes to expand the scope of permitted development through upwards extensions and demolition/rebuilding, we also intend to legislate so that prior approval for exercising such rights takes into account design codes which are in place locally (or, in the absence of these, the National Model Design Code).

#### **Question**

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

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

### **EFFECTIVE STEWARDSHIP AND ENHANCEMENT OF OUR NATURAL AND HISTORIC ENVIRONMENT**

- 3.22. The reformed planning system will continue to protect the places of environmental and cultural value which matter to us. Plans will still play a vital role in identifying not just areas of defined national and international importance (such as National Parks and Sites of Special Scientific Interest), but also those which are valued and defined locally (such as Conservation Areas and Local Wildlife Sites).
- 3.23. However, the planning system can and should do much more than this. In line with the ambitions in our 25 Year Environment Plan, we want the reformed system to play a proactive role in promoting environmental recovery and long-term sustainability. In doing so, it needs to play a strong part in our efforts to mitigate and adapt to climate change and reduce pollution as well as making our towns and cities more liveable through enabling more and better green spaces and tree cover. Several initiatives are already laying the foundations for this. Nationally, the Environment Bill currently before Parliament will legislate for mandatory net gains for biodiversity as a condition of most new development. And the Local Nature Recovery Strategies which it will also introduce will identify opportunities to secure enhancements through development schemes and contributions. We will also deliver our commitment to make all new streets tree-lined, by setting clear expectations through the changes to the National Planning Policy Framework which will be consulted on in the autumn, and informed by the outcome of this summer's consultation on the England Tree Strategy.<sup>15</sup> And we are also assessing the extent to which our planning policies and processes for managing flood risk may need to be strengthened along with developing a national framework of green infrastructure standards.
- 3.24. Once the proposals in this paper for reformed Local Plans begin to be implemented, it will be important for authorities to consider how the identification of different categories of land, and any sub-areas within them, can most effectively support climate change mitigation and adaptation. For example, in identifying land for inclusion within the *Growth* area, or the densities of development appropriate in different locations, the ability to maximise walking, cycling and public transport opportunities will be an important consideration.

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<sup>15</sup> To give your views on the England Tree Strategy, please visit <https://consult.defra.gov.uk/forestry/england-tree-strategy/>.

**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.**

- 3.25. These measures, and reform of our policy framework, provide important opportunities to strengthen the way that environmental issues are considered through the planning system. However, we also think there is scope to marry these changes with a simpler, effective approach to assessing environmental impacts.
- 3.26. In doing so, we will want to be clear about the role that local, spatially-specific policies can continue to play, such as in identifying important views, opportunities to improve public access or places where renewable energy or woodland and forestry creation could be accommodated. In reviewing the Framework, we will also want to ensure that it provides a clear and robust basis for development management decisions more generally, so that reliance no longer needs to be placed on generic policies contained in Local Plans.

**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.**

- 3.27. It is vital that environmental considerations are considered properly as part of the planning and development process. However, the current frameworks for doing so – which include Strategic Environmental Assessment, Sustainability Appraisal, and Environmental Impact Assessment – can lead to duplication of effort and overly-long reports which inhibit transparency and add unnecessary delays. Outside of the European Union, it is also important that we take the opportunity to strengthen protections that make the biggest difference to species, habitats and ecosystems of national importance, and that matter the most to local communities.
- 3.28. To succeed, a new system will need to meet several objectives:
- Processes for environmental assessment and mitigation need to be quicker and speed up decision-making and the delivery of development projects. The environmental aspects of a plan or project should be considered early in the process, and to clear timescales. National and local level data, made available to authorities, communities and applicants in digital form, should make it easier to re-use and update information and reduce the need for site-specific surveys.
  - Requirements for environmental assessment and mitigation need to be simpler to understand and consolidated in one place so far as possible, so that the same impacts and opportunities do not need to be considered twice.
  - Any new system will need to ensure that we take advantage of opportunities for environmental improvements while also meeting our domestic and international obligations for environmental protection. This will be the subject of a separate and more detailed consultation in the autumn.

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

- 3.29. The planning system has played a critical role ensuring the historic buildings and areas we cherish are conserved and, where appropriate, enhanced by development. The additional statutory protections of listed building consent and conservation area status have worked well, and the National Planning Policy Framework already sets out strong protections for heritage assets where planning permission or listed building consent is needed. We want to build on this framework as we develop the new planning system. We envisage that Local Plans will clearly identify the location of internationally, nationally and locally designated heritage assets, such as World Heritage Sites and conservation areas, as well locally important features such as protected views.
- 3.30. We also want to ensure our historic buildings play a central part in the renewal of our cities, towns and villages. Many will need to be adapted to changing uses and to respond to new challenges, such as mitigating and adapting to climate change. We particularly want to see more historical buildings have the right energy efficiency measures to support our zero carbon objectives. Key to this will be ensuring the planning consent framework is sufficiently responsive to sympathetic changes, and timely and informed decisions are made.
- 3.31. We will, therefore, review and update the planning framework for listed buildings and conservation areas, to ensure their significance is conserved while allowing, where appropriate, sympathetic changes to support their continued use and address climate change. In doing so, we want to explore whether there are new and better ways of securing consent for routine works, to enable local planning authorities to concentrate on conserving and enhancing the most important historic buildings. This includes exploring whether suitably experienced architectural specialists can have earned autonomy from routine listed building consents.

**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.**

- 3.32. The planning system is only one of the tools that we need to use to mitigate and adapt to climate change. Last year we consulted on our proposals to move towards a Future Homes Standard, which was a first step towards net zero homes. From 2025, we expect new homes to produce 75-80 per cent lower CO2 emissions compared to current levels. These homes will be 'zero carbon ready', with the ability to become fully zero carbon homes over time as the electricity grid decarbonises, without the need for further costly retrofitting work.
- 3.33. We welcome the Committee on Climate Change's response to the consultation and we have considered the points they raised. We will respond to the Future Homes Standard consultation in full in the autumn. As part of this, we intend to review the roadmap to the Future Homes Standard to ensure that implementation takes place to the shortest possible timeline. Our ambition is that homes built under our new planning system will not need retrofitting in the future. To work towards ensuring that all new homes are fit for a zero carbon future we will also explore options for the future of energy efficiency standards, beyond 2025.

- 3.34. All levels of Government have a role to play in meeting our net zero goal, and Local Authorities are rising to this challenge. Local Planning Authorities, as well as central Government, should be accountable for the actions that they are taking, and the consultation response will look to clarify the role that they can play in setting energy efficiency standards for new build developments.
- 3.35. We will also want to ensure that high standards for the design, environmental performance and safety of new and refurbished buildings are monitored and enforced. As local authorities are freed from many planning obligations through our reforms, they will be able to reassign resources and focus more fully on enforcement. Ensuring that planning standards and building regulations are met, whether for new homes or for retrofitting old homes, will help to ensure that we deliver homes that are fit for the future and cheaper to run.



# Pillar Three – Planning for infrastructure and connected places

## Overview

- 4.1. New development brings with it new demand for public services and infrastructure. Mitigating these impacts – by securing contributions from developers and capturing more land value uplift generated by planning decisions to deliver new infrastructure provision – is key for both new and existing communities. It is also central to our vision for renewal of the planning system.
- 4.2. At present, there are two broad routes for local planning authorities to secure developer contributions, both of which are discretionary for authorities: planning obligations and the Community Infrastructure Levy. Planning obligations – through Section 106 agreements – are negotiated with developers, and in 2018/19 were worth a total of £7bn, of which £4.7bn was in the form of affordable housing contributions – supporting delivery of 30,000 affordable homes. In contrast, the Community Infrastructure Levy is a fixed charge, levied on the area (floorspace) of new development, and secures infrastructure that addresses the cumulative impact of development in an area. The Community Infrastructure Levy is not mandatory for local planning authorities, and around half of authorities currently charge it. Levy rates are discretionary, established by assessments of infrastructure need and viability.
- 4.3. There are several problems with this system. Planning obligations are broadly considered to be uncertain and opaque, as they are subject to negotiation and renegotiation based in part on the developer's assessment of viability. This creates uncertainty for communities about the level of affordable housing and infrastructure that development will bring. In turn, this brings cost, delay and inconsistency into the process. Over 80 per cent of local authorities agree that such negotiations create delay, despite the planning application being acceptable in principle.<sup>16</sup> This acts as a barrier to entry to the market, and major developers are better placed to devote the legal and valuation resource needed to negotiate successfully. This unevenness is a problem too for local authorities, with significant variation in skill and negotiation in negotiating viability across authorities.
- 4.4. The Community Infrastructure Levy addresses many of these problems as it is a flat-rate and non-negotiable tariff, and developers and local authorities have, in general, welcomed the certainty it brings. However, as payment is set at the point planning permission is granted, and payment due once development commences, it is inflexible in the face of changing market conditions. Payment before a single home has been built increases the developer's risk and cost of finance, creating cashflow challenges which are more acute for smaller developers. And despite early payment, many local authorities have been slow to spend Community Infrastructure Levy revenue on early infrastructure delivery, reflecting factors

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<sup>16</sup> MHCLG (2019) *The Value and Incidence of Developer Contributions in England 2018/19*

including indecision, competing spending priorities, and uncertainty over other infrastructure funding streams.

- 4.5. Securing necessary infrastructure and affordable housing alongside new development is central to our vision for the planning system. We want to bring forward reforms to make sure that developer contributions are:
- responsive to local needs, to ensure a fairer contribution from developers for local communities so that the right infrastructure and affordable housing is delivered;
  - transparent, so it is clear to existing and new residents what new infrastructure will accompany development;
  - consistent and simplified, to remove unnecessary delay and support competition in the housebuilding industry;
  - buoyant, so that when prices go up the benefits are shared fairly between developers and the local community, and when prices go down there is no need to re-negotiate agreements.
- 4.6. The Government could also seek to use developer contributions to capture a greater proportion of the land value uplift that occurs through the grant of planning permission, and use this to enhance infrastructure delivery. There are a range of estimates for the amount of land value uplift currently captured, from 25 to 50 per cent<sup>17</sup>. The value captured will depend on a range of factors including the development value, the existing use value of the land, and the relevant tax structure – for instance, whether capital gains tax applies to the land sale. Increasing value capture could be an important source of infrastructure funding but would need to be balanced against risks to development viability.

#### 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]*

## Proposals

### A CONSOLIDATED INFRASTRUCTURE LEVY

- 4.7. We propose that the existing parallel regimes for securing developer contributions are replaced with a new, consolidated 'Infrastructure Levy'.

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

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<sup>17</sup> Estimates provided to the Housing, Communities and Local Government Select Committee Inquiry into Land Value Capture: <https://publications.parliament.uk/pa/cm201719/cmselect/cmcomloc/766/766.pdf>

- 4.8. We believe that the current system of planning obligations under Section 106 should be consolidated under a reformed, extended 'Infrastructure Levy'.
- 4.9. This would be based upon a flat-rate, valued-based charge, set nationally, at either a single rate, or at area-specific rates. This would address issues in the current system as it would:
- be charged on the final value of a development (or to an assessment of the sales value where the development is not sold, e.g. for homes built for the rental market), based on the applicable rate at the point planning permission is granted;
  - be levied at point of occupation, with prevention of occupation being a potential sanction for non-payment;
  - include a value-based minimum threshold below which the levy is not charged, to prevent low viability development becoming unviable, reflecting average build costs per square metre, with a small, fixed allowance for land costs. Where the value of development is below the threshold, no Levy would be charged. Where the value of development is above the threshold, the Levy would only be charged on the proportion of the value that exceeded the threshold ; and
  - provide greater certainty for communities and developers about what the level of developer contributions are expected alongside new development.
- 4.10. The single rate, or area-specific rates, would be set nationally. It would aim to increase revenue levels nationally when compared to the current system. Revenues would continue to be collected and spent locally.
- 4.11. As a value-based charge across all use classes, we believe it would be both more effective at capturing increases in value and would be more sensitive to economic downturns. It would reduce risk for developers, and would reduce cashflow difficulties, particularly for SME developers.
- 4.12. In areas where land value uplift is insufficient to support significant levels of land value capture, some or all of the value generated by the development would be below the threshold, and so not subject to the levy. In higher value areas, a much greater proportion of the development value would be above the exempt amount, and subject to the levy.
- 4.13. To better support the timely delivery of infrastructure, we would also allow local authorities to borrow against Infrastructure Levy revenues so that they could forward fund infrastructure. Enabling borrowing combined with a shift to levying developer contributions on completion, would incentivise local authorities to deliver enabling infrastructure, in turn helping to ensure development can be completed faster. As with all volatile borrowing streams, local authorities should assure themselves that this borrowing is affordable and suitable.
- 4.14. Under this approach the London Mayoral Community Infrastructure Levy, and similar strategic Community Infrastructure Levies in combined authorities, could be retained as part of the Infrastructure Levy to support the funding of strategic infrastructure.

- 4.15. In bringing forward the reformed Infrastructure Levy, we will need to consider its scope. We will also consider the impact of this change on areas with lower land values.
- 4.16. **Alternative option:** The Infrastructure Levy could remain optional and would be set by individual local authorities. However, as planning obligations would be consolidated into the single Infrastructure Levy, we anticipate that there would be a significantly greater uptake. The aim of the *de minimis* threshold would be to remove the viability risk, simplifying the rate setting process, as this would remove the need for multiple charging zones within an authority. It would be possible to simplify further – for instance, for the Government to set parameters. There would be a stronger incentive for local authorities to introduce the new Levy, as they would not be able to use Section 106 planning obligations to secure infrastructure or affordable housing. In addition, some local authorities have chosen not to introduce the Community Infrastructure Levy out of concern for the impact on viability of development. Because the new Infrastructure Levy would only be charged above a set threshold, these impacts would be mitigated.
- 4.17. This option would address issues around transparency, responsiveness to local needs and consistency. However, the Government's levers over levels of land value capture would be less strong, with decisions about levy rates being taken at the local level.
- 4.18. Alternatively, the national rate approach could be taken, but with the aim of capturing more land value than currently, to better support the delivery of infrastructure. While developers would be liable for paying the levy, the cost of this would be capitalised into land value. This would ensure that the landowners who benefit from increases in value as a result of the grant of planning permission contribute to the infrastructure and affordable housing that makes development acceptable.

## 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.]*

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

- 4.19. In making this change to developer contributions for new development, the scope of the Infrastructure Levy would be extended to better capture changes of use which require planning permission, even where there is no additional floorspace, and for some permitted development rights including office to residential conversions and new demolition and rebuild permitted development rights. This approach would increase the levy base, and would allow these developments to better contribute to infrastructure delivery and making development acceptable to the community. However, we will maintain the exemption of self and custom-build development from the Infrastructure Levy.

**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.]*

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

- 4.20. Developer contributions currently deliver around half of all affordable housing, most of which is delivered on-site. It is important that the reformed approach will continue to deliver on-site affordable housing at least at present levels.
- 4.21. Affordable housing provision is currently secured by local authorities via Section 106, but the Community Infrastructure Levy cannot be spent on it. With Section 106 planning obligations removed, we propose that under the Infrastructure Levy, authorities would be able to use funds raised through the levy to secure affordable housing.
- 4.22. This could be secured through in-kind delivery on-site, which could be made mandatory where an authority has a requirement, capability and wishes to do so. Local authorities would have a means to specify the forms and tenures of the on-site provision, working with a nominated affordable housing provider. Under this approach, a provider of affordable housing could purchase the dwelling at a discount from market rate, as now. However, rather than the discount being secured through Section 106 planning obligations, it would instead be considered as in-kind delivery of the Infrastructure Levy. In effect, the difference between the price at which the unit was sold to the provider and the market price would be offset from the final cash liability to the Levy. This would create an incentive for the developer to build on-site affordable housing where appropriate.<sup>18</sup> First Homes,

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<sup>18</sup> As above, a Section 106 planning obligation could still be used to secure a covenant on the land, where necessary. However, the value would be captured through the Infrastructure Levy, rather than Section 106.

which are sold by the developer direct to the customer at a discount to market price, would offset the discount against the cash liability.

- 4.23. Under this approach we recognise that some risk is transferring to the local planning authority, and that we would need to mitigate that risk in order to maintain existing levels of on-site affordable housing delivery. We believe that this risk can be fully addressed through policy design. In particular, in the event of a market fall, we could allow local planning authorities to 'flip' a proportion of units back to market units which the developer can sell, if Levy liabilities are insufficient to cover the value secured through in-kind contributions. Alternatively, we could require that if the value secured through in-kind units is greater than the final levy liability, then the developer has no right to reclaim overpayments. Government could provide standardised agreements, to codify how risk sharing would work in this way.
- 4.24. We would also need to ensure the developer was incentivised to deliver high build and design quality for their in-kind affordable homes. Currently, if Section 106 homes are not of sufficient quality, developers may be unable to sell it to a provider, or have to reduce the price. To ensure developers are not rewarded for low-standard homes under the Levy, local authorities could have an option to revert back to cash contributions if no provider was willing to buy the homes due to their poor quality. It is important that any approach taken maintains the quality of affordable housing provision as well as overarching volumes, and incentivises early engagement between providers of affordable housing and developers. Local authorities could also accept Infrastructure Levy payments in the form of land within or adjacent to a site. Through borrowing against further Infrastructure Levy receipts, other sources of funding, or in partnership with affordable housing providers, they could then build affordable homes, enabling delivery at pace.
- 4.25. **Alternative option:** We could seek to introduce further requirements around the delivery of affordable housing. To do this we would create a 'first refusal' right for local authorities or any affordable housing provider acting on their behalf to buy up to a set proportion of on-site units (on a square metre basis) at a discounted price, broadly equivalent to build costs. The proportion would be set nationally, and the developer would have discretion over which units were sold in this way. A threshold would be set for smaller sites, below which on-site delivery was not required, and cash payment could be made in lieu. Where on-site units were purchased, these could be used for affordable housing, or sold on (or back to the developer) to raise money to purchase affordable housing elsewhere. The local authority could use Infrastructure Levy funds, or other funds, in order to purchase units.

### 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.]*

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

4.26. It is important that there is a strong link between where development occurs and where funding is spent. Currently, the Neighbourhood Share of the Community Infrastructure Levy ensures that up to 25 per cent of the levy is spent on priorities in the area that development occurred, with funding transferred to parish councils in parished areas. There are fewer restrictions on how this funding is spent, and we believe it provides an important incentive to local communities to allow development in their area. We therefore propose that under this approach the Neighbourhood Share would be kept, and we would be interested in ways to enhance community engagement around how these funds are used, with scope for digital innovation to promote engagement.

4.27. There is scope for even more flexibility around spending. We could also increase local authority flexibility, allowing them to spend receipts on their policy priorities, once core infrastructure obligations have been met. In addition to the provision of local infrastructure, including parks, open spaces, street trees and delivery or enhancement of community facilities, this could include improving services or reducing council tax. The balance of affordable housing and infrastructure may vary depending on a local authority's circumstances, but under this approach it may be necessary to consider ring-fencing a certain amount of Levy funding for affordable housing to ensure that affordable housing continues to be delivered on-site at current levels (or higher). There would also be opportunities to enhance digital engagement with communities as part of decision making around spending priorities. Alternatively, the permitted uses of the Levy could remain focused on infrastructure and affordable housing, as they are broadly are at present. Local authorities would continue to identify the right balance between these to meet local needs, as they do at present.

### **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.]*

# Delivering change

## How we move into the new system

- 5.1. It is important that in bringing forward reform to improve the operation of the planning system, we do not cause delays to development that is currently planned.
- 5.2. Subject to responses to this consultation, we will consider the arrangements for implementing these changes to minimise disruption to existing plans and development proposals and ensure a smooth transition. This includes making sure that recently approved plans, existing permissions and any associated planning obligations can continue to be implemented as intended; and that there are clear transitional arrangements for bringing forward new plans and development proposals as the new system begins to be implemented.
- 5.3. Nevertheless, we do want to make rapid progress toward this new planning system. We are already introducing a new Use Class Order, with associated permitted development rights, to make easier for businesses to change use without the need for planning permission to support our high streets and town centres bounce back following the COVID-19 pandemic. We have also created new permitted development rights to enable more new homes to be built on top of buildings and the demolition and rebuild of vacant buildings for housing, without the need for usual planning permission.
- 5.4. Today, we are also publishing a consultation on four shorter-term measures which will improve the immediate effectiveness of the current system:
  - changes to the standard method for assessing local housing need, which as well as being a proposal to change guidance in the short term has relevance to proposals for land supply reforms set out in this paper;
  - securing of First Homes, sold at a discount to market price for first time buyers, including key workers, through developer contributions in the short term until the transition to a new system;
  - temporarily lifting the small sites threshold, below which developers do not need to contribute to affordable housing, to up to 40 or 50 units;
  - extending the current Permission in Principle to major development so landowners and developers now have a fast route to secure the principle of development for housing on sites without having to work up detailed plans first;
- 5.5. This consultation document can be found at:  
[www.gov.uk/government/consultations/changes-to-the-current-planning-system](http://www.gov.uk/government/consultations/changes-to-the-current-planning-system)
- 5.6. To provide better information to local communities, to promote competition amongst developers, and to assist SMEs and new entrants to the sector, we will consult on options for improving the data held on contractual arrangements used to control land. This can be found at: [www.gov.uk/government/consultations/transparency-and-competition-a-call-for-evidence-on-data-on-land-control](http://www.gov.uk/government/consultations/transparency-and-competition-a-call-for-evidence-on-data-on-land-control)

## Public assets and investment



- 5.7. As we fix our planning system, we also want to make better use of surplus land owned by the public sector, and to level up public investment in development to support renewal of towns and cities across the country, giving power to communities to shape its future use and bringing investment to places across the country. We will do this by:
- - **Ensuring investment in new public buildings supports renewal and regeneration of town and city centres across the country.** The Government Estate Strategy (GES), which was published in 2018, sets out how we will use the estate as an enabler to deliver better outcomes for the public, across all four nations of the UK. As part of this, the Government Hubs programme aims to transform the Government's office estate by accommodating departmental workforces in shared regional hubs and supporting office estate – creating strategic hubs across the UK in major city centre conurbations and in secondary towns and cities. We will continue to look at how the Government can ensure investment in its estate delivers wider benefits for places across the country.
  - **Exploring how disposal of publicly-owned land can support the SME and self-build sectors.** As announced by the Prime Minister last month in 'A New Deal for Britain', the Government will produce a new cross-government strategy on how land owned by the Government can be managed and released more effectively and put to better use. As part of this review, we will explore how we can support SME housebuilders, community land trusts and self-builders to identify public land opportunities.

## **Supporting innovation in delivery**

- 5.8. As we bring forward planning reform, we also want to ensure we have in place the right delivery mechanisms, including development corporations. A good example that we are already progressing is development at Toton in the East Midlands, where we have announced our intention to support the establishment of a development corporation to maximise the area's international links and create tens of thousands of new homes and jobs. We want to see more schemes of this kind, backed by modern delivery models, around the country.
- 5.9. That is why we consulted at the end of last year on changes to the legislative framework for development corporations. This includes exploring whether we need to make changes to enable more flexible development corporation models that can drive housing, regeneration and employment. We are currently considering responses to the consultation and will respond to it shortly.

## **Making sure the system has the right people and skills**

- 5.10. Local planning authorities remain at the heart of our ambitious reforms. We want to free up planners to focus on what they were trained for – creating great communities through world-class civic engagement and proactive plan-making, rather than reactive development management.
- 5.11. We recognise that local planning departments need to have the right people with the right skills, as well as the necessary resources, to implement these reforms

successfully. Many local authorities are delivering great services, and through the COVID-19 pandemic have been able to transform the way they work to a more digital and modern service. We look forward to seeing evaluations and lessons learned so that we can use this as a catalyst for modernisation of our planning services.

- 5.12. But we know that local authority planning departments are under great pressure – with spending per person on planning and development down 60 per cent and shortages of specialist skills such as design and ecology.<sup>19</sup> And the technology in local planning authorities to support modern services is not there – whilst PropTech firms are developing new apps and other digital services that enable communities to engage with development in new ways, in few places can this be captured by the local authority. Instead, documents are submitted electronically, but not in the way of modern digital services such as those now supporting tax services.
- 5.13. The preparation of reformed Local Plans, development of new design codes, a major overhaul of development contributions, and a new streamlined approach to decision-making will have profound implications for how local planning authorities operate in future. They will need to have sufficient leadership, a strong cadre of professional planners and good access to technical expertise, as well as transformed systems which utilise the latest digital technology. But equally importantly, there must be a fundamental cultural change on how planning departments operate. They need to be more outward looking, proactively engaging with developers, businesses, architects and designers, as well as a wider cross-section of their local communities.
- 5.14. In particular, we envisage the focus of local planning authorities shifting towards the development of clear Local Plans and high-quality design codes which set the parameters for development – rather than making discretionary decisions based on vague policies. In doing so, there is a real opportunity for planners to redesign their individual roles and change perceptions of their profession. We will consider how best to support the planning profession in making this adjustment, in a way which supports culture change, improves recruitment and changes perceptions of planning.
- 5.15. In addition, other key players, including the Planning Inspectorate and statutory consultees, will have to transform the way they operate in response to these reforms, given their critical role supporting the preparation of Local Plans and decision-making. They too will need to be more responsive and outward looking, and have the necessary skills and resources to undertake their new roles.
- 5.16. We understand why many participants – not just local authorities, but statutory consultees and the Planning Inspectorate – are risk averse. Judicial review is expensive, and to lose a judicial review in the courts is bad for the reputation of either. And judicial reviews can be precedent setting, establishing a new interpretation of the law. We think the proposals set out in the document should remove the risk of judicial review substantially. Most judicial reviews are about imprecise and unclearly worded policies or law. Our plans for an overhaul of

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<sup>19</sup> Institute for Fiscal Studies (2019) “English local government funding: trends and challenges in 2019 and beyond”, <https://www.ifs.org.uk/uploads/English-local-government-funding-trends-and-challenges-in-2019-and-beyond-IFS-Report-166.pdf>

planning law to create simple and clear processes and for plans that set out clear requirements and standards will substantially remove the scope for ambiguity and therefore challenge.

**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:**

- 5.17. The cost of operating the new planning system should be principally funded by the beneficiaries of planning gain – landowners and developers – rather than the national or local taxpayer. Currently, the cost of development management activities by local planning authorities is to a large extent covered by planning fees, although the current fee structure means the cost of processing some applications can be significantly greater than their individual fee. However, the cost of preparing Local Plans and enforcement activities is now largely funded from the local planning authority's own resources.
- 5.18. Planning fees should continue to be set on a national basis and cover at least the full cost of processing the application type based on clear national benchmarking. This should involve the greater regulation of discretionary pre-application charging to ensure it is fair and proportionate.
- 5.19. 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.
- 5.20. Reform should be accompanied by a deep dive regulatory review to identify and eliminate outdated regulations which increase costs for local planning authorities, especially to the decision-making process.
- 5.21. Some local planning activities should still be funded through general taxation given the public benefits from good planning, and time limited funding will be made available by the Government in line with the new burdens principle to support local planning authorities to transition to the new planning system as part of the next Spending Review.
- 5.22. Local planning authorities should be subject to a new performance framework which ensures continuous improvement across all planning functions from Local Plans to decision-making and enforcement – and enables early intervention if problems emerge with individual authorities.
- 5.23. The Planning Inspectorate and statutory consultees should become more self-financing through new charging mechanisms and be subject to new performance targets to improve their performance.
- 5.24. Workforce planning and skills development, including training, should be principally for the local government sector to lead on, working closely with Government, statutory consultees, planning consultancies and universities.
- 5.25. Reform should be accompanied by a significant enhancement in digital and geospatial capability and capacity across the planning sector to support high-quality new digital Local Plans and digitally enabled decision-making. We think the English

planning profession has the potential to become an international world-leader in digital planning, capable of exporting world class planning services around the world.

- 5.26. In developing this strategy, we recognise different local planning authorities face different pressures and issues, and it will be important to develop a resourcing and skills framework which works for all authorities across the country. We will work with local planning authorities, professional bodies and the wider planning sector to ensure views about implementation are considered. We would particularly want to see innovative solutions which can transform practice.
- 5.27. At the same time, we also want to enable a thriving PropTech sector. By unlocking the data that underpins the planning system so that it is open, we want to enable the PropTech sector to transform housing, land, and planning industries with innovative products that are interoperable with others. This will make use of process improvement insights and data to offer services for many different clients, including for improved public consultation opportunities for citizens and developers to identify sites on which to build, helping to reduce investment risks. We will continue to engage with the innovators and the UK PropTech sector through a Minister-led PropTech Innovation Council (announced in November 2019) to make the most of innovative new approaches to meet public policy objectives, help this emerging sector to boost productivity in the wider planning and housing sectors, and ensure government data and decisions support the sector's growth in the UK and internationally.

### **Stronger enforcement**

- 5.28. As part of the implementation of our planning reforms, we want to see local planning authorities place more emphasis on the enforcement of planning standards and decisions. Planning enforcement activity is too often seen as the 'Cinderella' function of local planning services. But local communities want new development to meet required design and environmental standards, and robust enforcement action to be taken if planning rules are broken. As local planning authorities are freed from many planning requirements through our reforms, they will be able to focus more on enforcement across the planning system.

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

- 5.29. We will 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.
- 5.30. This will include implementing our commitments from the Government's response to the consultation on unauthorised development and encampments, to strengthen national planning policy against intentional unauthorised development and ensure temporary stop notices are more effective. And will also consider what more can be done in cases where the Environment Agency's flood risk advice on planning applications is not followed.

# What happens next

## Implementing reform

- 6.1. The proposals in this paper apply to England only. Planning is devolved in Scotland, Wales and Northern Ireland.
- 6.2. Subject to the outcome of this consultation, we will seek to bring forward legislation and policy changes to implement our reforms. This consultation sets out our vision for the basis of a reformed planning system. We have not comprehensively covered every aspect of the system, and the detail of the proposals will need further development pending the outcome of this consultation. We will continue to develop the proposals as we gather feedback and views on them.
- 6.3. Our proposals for Local Plan reform, changes to developer contributions and development management would require primary legislation followed by secondary legislation. The proposals allow 30 months for new Local Plans to be in place so a new planning framework, so we would expect new Local Plans to be in place by the end of the Parliament.
- 6.4. We would implement any policy changes, including to set a new housing requirement, by updating the National Planning Policy Framework in line with the new legislation.

## Responding to this consultation

### EQUALITIES IMPACTS

- 6.5. We want all communities, families, groups and individuals to have a say in the future of the places where they live. For too long, planning and planning decisions have felt out of reach from too many people. The Government has heard how the combination of technical jargon and traditional models of community engagement discourages people from having their say on decisions. At the same time, it disproportionately encourages engagement from people from a narrow set of demographic groups – typically older, better off and white. We believe that the voices of those who may benefit most from new development are therefore often the quietest in the planning process.
- 6.6. We are committed to delivering wider engagement in planning, increasing the supply of land for development, and supporting inclusive and mixed communities. Some authorities and developers are pioneering new models of engagement that broaden this to different groups. We hope that the reforms set out in this consultation – to make the system more accessible, accountable, digital and transparent – will increase access and engagement for all groups up and down the country.
- 6.7. We would welcome views on the potential impact on the proposals raised in this consultation on people with protected characteristics and whether further reforms could broaden access to planning for people in diverse groups.

<b>Question</b>
-----------------

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?

## About this consultation

This consultation document and consultation process have been planned to adhere to the Consultation Principles issued by the Cabinet Office.

Representative groups are asked to give a summary of the people and organisations they represent, and where relevant who else they have consulted in reaching their conclusions when they respond.

Information provided in response to this consultation, including personal data, may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 2018 (DPA), the General Data Protection Regulation, and the Environmental Information Regulations 2004).

If you want the information that you provide to be treated as confidential, please be aware that, as a public authority, the Department is bound by the Freedom of Information Act and may therefore be obliged to disclose all or some of the information you provide. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

The Ministry of Housing, Communities and Local Government will process your personal data in accordance with the law and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties. A full privacy notice is included at Annex A.

Individual responses will not be acknowledged unless specifically requested.

Your opinions are valuable to us. Thank you for taking the time to read this document and respond.

Are you satisfied that this consultation has followed the Consultation Principles? If not or you have any other observations about how we can improve the process please contact us via the [complaints procedure](#).

# Annex A

The following is to explain your rights and give you the information you are be entitled to under the data protection legislation.

These rights apply to your personal data (your name, address, and anything that could be used to identify you personally) not the content of your response to the consultation.

## **1. The identity of the data controller and contact details of our Data Protection Officer**

The Ministry of Housing, Communities and Local Government (MHCLG) is the data controller. The Data Protection Officer can be contacted at [dataprotection@communities.gov.uk](mailto:dataprotection@communities.gov.uk)

## **2. Why we are collecting your personal data**

Your personal data is being collected as an essential part of the consultation process, so that we can contact you regarding your response and for statistical purposes. We may also use it to contact you about related matters.

## **3. Our legal basis for processing your personal data**

Article 6(1)(e) of the General Data Protection Regulation 2016 (GPDR) provides that processing shall be lawful if processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller. Section 8(d) of the Data Protection Act 2018 further provides that this shall include processing of personal data that is necessary for the exercise of a function of the Crown, a Minister of the Crown or a government department.

The processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the Ministry of Housing, Communities and Local Government. The task is consulting on departmental policies or proposals or obtaining opinion data in order to develop good effective government policies in relation to planning.

## **4. With whom we will be sharing your personal data**

We will not share your personal data with organisations outside of MHCLG without contacting you for your permission first.

## **5. For how long we will keep your personal data, or criteria used to determine the retention period.**

Your personal data will be held for two years from the closure of the consultation.



## **6. Your rights, e.g. access, rectification, erasure**

The data we are collecting is your personal data, and you have considerable say over what happens to it. You have the right:

- a. to see what data, we have about you
- b. to ask us to stop using your data, but keep it on record
- c. to ask to have all or some of your data deleted or corrected
- d. to lodge a complaint with the independent Information Commissioner (ICO) if you think we are not handling your data fairly or in accordance with the law. You can contact the ICO at <https://ico.org.uk/> , or telephone 0303 123 1113.

## **7. Storage of your personal data**

The Data you provide directly will be stored by MHCLG's appointed third-party on their servers. We have taken all necessary precautions to ensure that your rights in terms of data protection will not be compromised by this.

If you submit information to this consultation using our third-party survey provider, it will be moved to our secure government IT systems at a date following the consultation publication date.

## **8. Your personal data will not be used for any automated decision making.**



Ministry of Housing,  
Communities &  
Local Government

# Transparency and Competition

A call for evidence on data on land control



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If you have any enquiries regarding this document/publication, complete the form at <http://forms.communities.gov.uk/> or write to us at:

Contractual Controls  
Ministry of Housing, Communities and Local Government  
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SW1P 4DF

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For all our latest news and updates follow us on Twitter: <https://twitter.com/mhclg>

August 2020

# Scope of the call for evidence

Topic of this call for evidence:	This call for evidence seeks views on proposals to require additional data from the beneficiaries of certain types of interests in land—rights of pre-emption, options and estate contracts. It also seeks views on the design of the policy and additional evidence on the impacts of the policy.
Scope of this consultation:	The Ministry of Housing, Communities and Local Government is consulting on changes to legislation and registration practice.
Geographical scope:	These proposals relate to England and may apply to Wales subject to the agreement of the Welsh Government.
Impact Assessment:	N/A

## Basic Information

To:	This consultation is open to everyone. We are keen to hear from a wide range of interested parties from across the public and private sectors, as well as from the general public.
Body responsible for the consultation:	Ministry of Housing, Communities and Local Government
Duration:	This consultation opens on 6 August 2020 and will close at 23:59 on 30 October 2020.
Enquiries:	For any enquiries about the consultation please contact <a href="mailto:contractualcontrols@communities.gov.uk">contractualcontrols@communities.gov.uk</a> .
How to respond:	<p>You can respond completing the pro forma found on the webpage.</p> <p>Email responses should be sent to <a href="mailto:contractualcontrols@communities.gov.uk">contractualcontrols@communities.gov.uk</a></p> <p>Written responses should be sent to: Contractual Controls Ministry of Housing, Communities and Local Government 3rd floor, Fry Building 2 Marsham Street LONDON SW1P 4DF</p>

	<p>When you respond it would be very useful if you confirm whether you are replying as an individual or submitting an official response on behalf of an organisation and include:</p> <ul style="list-style-type: none"><li>• your name,</li><li>• your position (if applicable),</li><li>• the name of organisation (if applicable),</li><li>• an address (including post-code),</li><li>• an email address; and</li><li>• a contact telephone number.</li></ul>
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# Table of Contents

<b>Introduction</b>	<b>1</b>
<b>Land Ownership and Control</b>	<b>2</b>
<b>Contractual Controls and Market Failure</b>	<b>4</b>
<b>Contractual Controls in the Development Context</b>	<b>8</b>
<b>Protecting Interests</b>	<b>10</b>
<b>Proposals for Reform</b>	<b>12</b>
<b>Questions</b>	<b>14</b>
<b>Annex A: Proposed data requirements</b>	<b>27</b>
<b>About this consultation</b>	<b>30</b>



# Introduction

1. *Planning for the future* sets out ambitious changes to the planning system, seeking to make it more democratic, more dynamic and more open. Better data on land ownership and control is an essential prerequisite for the achievement of that vision.
2. HM Land Registry (HMLR) is committed to registering all publicly owned land by 2025 and aims to achieve comprehensive registration by 2030. However, data on the control of land are limited. This call for evidence sets out proposals to increase transparency of contractual arrangements used to exercise control over the buying or selling of land. This will improve the ability of local communities to play an informed role in the development of their neighbourhoods and support the Government's efforts to encourage more companies to enter the house building market.
3. The Government seeks a better understanding of the sort of arrangements that exist, asks for views on how best to improve transparency around them, and what additional data should be made public.



# Land Ownership and Control

4. Information on the ownership of registered land is held by HMLR. It maintains the register of title to freehold and a large amount of leasehold property in England and Wales, providing a safe and secure system for recording land ownership, mortgages and property rights. Some detail on interests may appear on the land register if they are protected by notices or restrictions.<sup>1</sup>

5. HMLR's data have limitations. The land register is not complete and where land is registered, not all interests are required to be recorded. Although the land register is publicly available, the data in it are primarily structured to support the conveyancing process:

- i. HMLR aims to achieve comprehensive registration of England and Wales by 2030. Currently, less than 13% of the land in England and Wales remains unregistered. Around a quarter of this may be publicly owned land.
- ii. Even if a piece of land is registered, not all interests relating to it are necessarily clearly recorded on its title. For example, a land owner may have entered into a contract that gives a developer first right to acquire and develop the land and, depending on how this interest has been protected, this information may not be readily accessible.
- iii. Whilst the land register itself is open and some of HMLR's data cannot be openly released for data protection and other privacy reasons, there are data that have not yet been openly published in a dataset.

6. In the 2017 housing white paper the Government announced a programme of measures to address these limitations, including a commitment to register all publicly owned land by 2025 and the aim of achieving comprehensive registration by 2030.

7. As part of its commitment to becoming 'the world's leading land registry for speed, simplicity and an open approach to data,' HMLR plans to 'make publishable data accessible and free of charge wherever possible and appropriate.'<sup>2</sup>

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<sup>1</sup> For more details of notices and restrictions and the protection of third-party interests in the register see HM Land Registry's Practice Guide 19. <https://www.gov.uk/government/publications/notices-restrictions-and-the-protection-of-third-party-interests-in-the-register/practice-guide-19-notices-restrictions-and-the-protection-of-third-party-interests-in-the-register>

<sup>2</sup> Not all of HMLR's data can be published as it can be subject to 3rd party IP, fraud and privacy constraints.

8. This call for evidence relates to the Government's commitment to improve the transparency of contractual arrangements—rights of pre-emption, options and conditional contracts—used to control land. It seeks views and comments that will help refine these proposals to minimise the costs to business and maintain the integrity of the land register.

# Contractual Controls and Market Failure

9. The Government considers that the lack of data on contractual controls is leading to a market failure resulting in two significant dis-benefits to the public:

- externalities—without comprehensive information on those controlling land, local communities cannot fully understand the likely path of development in their area; and
- information asymmetry—if this information is not readily available it raises a barrier to entry for small builders and new market participants and could potentially offer opportunities to exploit market position, reducing competition and market efficiency.

10. There have been several studies—Barker (2004), Callcutt (2007) and the Office of Fair Trading (2008)—that have looked at the use of contractual controls in relation to the development process. All three found that options and conditional contracts facilitate the bringing forward of land for development by allowing house builders to bring their financial resources and expertise to the promotion of land through the planning system while leaving other risks with the landowner.

11. Nevertheless, these reviews were hindered by a lack of consistent and complete data. Callcutt concluded that ‘The amount and ownership of land for development is a familiar issue, but a difficult one to address because of lack of data.’<sup>3</sup>

12. In 2008 the Office of Fair Trading (OFT) undertook an inquiry into the home building industry. One of the key lines of inquiry was into land banking, where house builders were alleged to be hoarding land with planning permission, rather than building on it, to profit from rising land prices. The OFT found that:

It is possible that other industries, land traders or strategic land funds for example, may landbank permissioned land more extensively than homebuilders. *The fragmented nature of land records has made it impossible for this study to consider these industries' practices within the scope of the current study* [emphasis added].<sup>4</sup>

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<sup>3</sup> Callcutt, John *et al.* (2007). *The Callcutt Review of Home Building Delivery*, page 33. Retrieved from [http://webarchive.nationalarchives.gov.uk/20070130001032/http://callcuttreview.co.uk/downloads/callcuttreview\\_221107.pdf](http://webarchive.nationalarchives.gov.uk/20070130001032/http://callcuttreview.co.uk/downloads/callcuttreview_221107.pdf)

<sup>4</sup> Office for Fair Trading. (2008). *Homebuilding in the UK: A market study*, paragraph 5.92. Retrieved from [http://webarchive.nationalarchives.gov.uk/20140402142426/http://www.offt.gov.uk/shared\\_offt/reports/comp\\_policy/oft1020.pdf](http://webarchive.nationalarchives.gov.uk/20140402142426/http://www.offt.gov.uk/shared_offt/reports/comp_policy/oft1020.pdf).

13. This lack of data remains a problem. In his analysis on build out rates, Sir Oliver Letwin expressed his dismay at ‘the paucity of publicly available data on land holdings.’<sup>5</sup>

## Benefits of Greater Transparency

### The Public Interest

14. Greater transparency on the ownership of land was resisted for hundreds of years. Numerous attempts were made to introduce ‘public registration’ in the years following the failure of the Statute of Enrolments 1535 to address the menace of ‘secret conveyancing’.<sup>6</sup>

15. HMLR was established as a non-ministerial department in 1862 to undertake the statutory function of keeping the register of title to freehold and leasehold property for England and Wales. The land register was opened in 1990, following Law Commission consideration. The Commission noted that ‘The ownership, as well as the user, of land, a finite resource, carries social responsibilities and is a matter of legitimate public interest...’<sup>7</sup>

16. The Government considers that holders of options and parties to conditional contracts carry similar social responsibilities to land owners. It is not unreasonable for the public to expect a similar level of disclosure, particularly as the beneficiaries who have rights in property are provided with far greater protection for their interests through the notice system than is the case for parties to ordinary types of contract under general law.

### Improving the development process

17. Better data on contractual controls would improve the development process for planners and developers. The Royal Town Planning Institute noted the need for ‘public access to information on who owns land and *who owns options on land* [emphasis added].’<sup>8</sup>

Transparency of land ownership is important for accountability. It would benefit the local authorities, who would then be able to see who owns strategically important sites; developers, who would then be able to demonstrate how much land they have bought; and the public, who would then be able to see if private owners are stalling development. It will

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<sup>5</sup> Letwin, O. (2018). *Independent Review of Build Out Rates: Draft Analysis*, paragraph 2.5. Retrieved from [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/718878/Build\\_Out\\_Review\\_Draft\\_Analysis.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/718878/Build_Out_Review_Draft_Analysis.pdf).

<sup>6</sup> Simpson, S. Rowton (1976). *Land Law and Registration*. (Cambridge University Press: Cambridge), pages 49-51.

<sup>7</sup> Law Commission, *Second Report on Land Registration: Inspection of the Register*, (HC 551, 1984-85), paragraph 18.

<sup>8</sup> Royal Town Planning Institute. (2013). *Delivering Large Scale Housing: Unlocking Schemes and Sites to Help Meet the UK's Housing Needs*, page 3. Retrieved from <http://www.rtpi.org.uk/media/630969/RTPI%20large%20scale%20housing%20report.pdf>

also provide a useful tool for land assembly where local authorities are innovative in doing so...

Importantly, the issue is not just about land ownership but is also about knowing which developers have bought options on the land. Our roundtable discussions shed light on how little local authorities know about the owners of land options in their area. Land options give the purchaser (a developer) the right to buy outright once planning permission has been granted. The issue is that an option on land affects the market without any transaction of the land having taken place. Here, transparency of land ownership is not as useful as knowing who owns the option during the planning process. This will allow local authorities to see which developers are buying options on land and how fast they are bringing development to conclusion, making for a better market.<sup>9</sup>

18. Greater transparency over options and other contractual controls would also benefit developers themselves. A study for the then Department for Communities and Local Government found that they can be stymied by a lack of transparency.

...in a Growth Area there are likely to be several developers all with options on land, which together form a strategic site from the point of view of the planning authority. Therefore it is in their interests to cooperate, not least because they then share the costs of promoting the overall scheme rather than each individual site. However, it is difficult for them to do this because all their options are different... .. But all the options are confidential so it is impossible to find out about other people's options. So the consortium [of developers] is effectively working in the dark. And all this cooperation takes time.<sup>10</sup>

19. The lack of transparency particularly affects SME builders who are more likely to find the effort required to identify and understand land affected by contractual controls onerous. The Government wishes to encourage more small builders and developers to enter the residential construction market to increase the number of houses built. Indeed, the Home Builders Federation (HBF) has estimated that returning to the number of residential builders operational in 2007 could help boost housing supply by 25,000 homes per year.<sup>11</sup>

20. Both the HBF and the Federation of Master Builders (FMB) have identified a lack of small sites as a major barrier to their members. In responses to the FMB 2016 House Builders' Survey, 'lack of available and viable land' was cited by two thirds (67 per cent) of SME builders as a major barrier to their being able to build more homes.<sup>12</sup>

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<sup>9</sup> *Ibid*, page 13.

<sup>10</sup> Monk, S, Whitehead, C. and Martindale, K. (2008). *Increasing Housing Supply*, (DCLG: London), page 17.

<sup>11</sup> Home Builders Federation. (2017). *Reversing the decline of small housebuilders: Reinvigorating entrepreneurialism and building more homes*, page 25.  
[[http://www.hbf.co.uk/uploads/media/HBF\\_SME\\_Report\\_2017\\_Web.pdf](http://www.hbf.co.uk/uploads/media/HBF_SME_Report_2017_Web.pdf)]

<sup>12</sup> Walker, A. (2016). *Small is beautiful: Delivering more homes through small sites*. London: Local Government Information Unit. Retrieved from <https://www.lgiu.org.uk/report/small-is-beautiful-delivering-more-homes-on-small-sites/>

21. Although the land register contains information on land ownership and interests, it can be costly and time-consuming to identify suitable development sites. A parcel of land must be found and then all interests in it—including contractual controls—must be individually assessed. These costs make it harder for new firms or self-builders to find plots and enter the market, and for existing firms to expand beyond their locality. Better data on land subject to contractual controls will reduce the time and cost of nugatory inquiries.

22. Digital tools and applications have streamlined and simplified business processes in many other sectors of the economy. Given access to free data, equally dramatic cost and time reductions should be achievable in the planning and development processes. However, better data is an essential prerequisite to unlocking these benefits.

### **Other benefits**

23. Collecting more data on contractual controls could also assist in ensuring financial stability. Although there is no evidence of the development of a speculative market in land derivatives, this is an area where the Bank of England and HM Treasury currently lack comprehensive and reliable information. Better data will provide early warning of potential speculative bubbles, allowing action to be taken in good time.

# Contractual Controls in the Development Context

24. The Government understands that, in the development context, the most common ways of exercising an element of control over the purchase or sale of land are:

- rights of pre-emption;
- options, and
- estate contracts.

## Rights of Pre-emption

25. A right of pre-emption entitles a potential buyer to become a preferred purchaser if, or when, the owner decides to sell the land. In some cases, a right of pre-emption requires the landowner, on deciding to sell, to offer it to the holder of the right for a fixed price (specified in the pre-emption agreement), the market price or by reference to an index. In other cases, the holder of the right is simply entitled to be told of the landowner's wish to sell so that the holder can make an offer that may be accepted or rejected by the landowner.

## Options

26. An option is a right to buy (or sell) land either for a fixed sum or at a price to be established by an agreed method of calculation. The person with the benefit of the land option can:

- compel the owner to sell it to them (a “call” option) and/or
- require a buyer to purchase it (a “put” option)

at any time within the agreed period or on the occurrence of a specified event. There is no obligation on the option holder to exercise the right, but if an option is exercised then the other party is bound to buy or sell as the case may be.

27. Leases can also contain options:

- Options to renew—an option to renew a lease (or under lease) allows a tenant to call for a further lease (or under lease) of the demised premises on the expiration of the existing term.
- Options to determine lease—a lease may contain a ‘break’ clause, an express power for either the lessor and lessee, or both, to determine a lease by notice prematurely at the end of the stated period, or on the occurrence of an event.

28. Options may also be created by a will. A testamentary option is a right given by a testator to buy property forming part of an estate. Although wills are not contracts, testamentary options can create equitable interests in land.

## Estate Contracts

29. An estate contract is a contract for the creation or transfer of a legal estate in land, for example the buying or selling of a house. Conditional contracts are a specific type of estate contract that are used when completion is dependent on external factors, such as the grant of planning permission, or on the consent of a third party.

30. Conditional contracts are used by landowners and developers to set out their respective obligations. They will generally commit the developer to buy and the land owner to sell a piece of land when certain conditions, such as a grant of planning permission or the grant of a mortgage satisfactory to the buyer, are fulfilled. Contracts are exchanged, but completion only takes place once the conditions have been satisfied.

31. However, these contracts can include numerous commitments that go beyond the obligation on the landowner to sell and on the developer to buy or take a lease. For example, the developer may contract to use its reasonable endeavours to obtain planning permission, to build out a development to certain standards and to an agreed timetable, and to pay overage. The landowner may be placed under a duty to assist the developer with the planning process, for example, by agreeing to enter into planning agreements, undertaking not to apply for a competing planning permission, or to make changes to the condition or occupation of the land.

32. On exchange, a conditional contract becomes an interest in land and, where the land that is the subject of the contract is registered, may be protected by a notice and/or, in some cases, a restriction.



# Protecting Interests

## Notices

33. Beneficiaries of some types of contractual arrangements, including rights of pre-emption, options, and estate contracts, may, where land that is subject to an interest is registered, protect their interests by means of a notice. Interests protected by notice can be enforced against a subsequent owner if the person with whom the beneficiary has entered the agreement with sells the property. Beneficiaries may apply to HMLR for an agreed notice or a unilateral notice to be entered onto the land register. However, the entry of a notice is not compulsory and the choice of whether to apply for an agreed notice or unilateral notice rests with the applicant. Where the applicant chooses to apply for a unilateral notice, only limited details need be provided. Even when an interest is protected by an agreed notice, key information is not provided on the face of the land register and may only be found in the supporting documentation available from HMLR.

34. Entries on the land register relating to interests that can be protected by the notice are not readily searchable and key information relating to a protected interest does not always have to be provided in the application. For example, there is no requirement to provide the duration of an option or the conditional elements of a conditional contract.

35. Under the agreed notice procedure, the application must be lodged by the owner of the land or with his or her consent, or the Registrar must be satisfied as to the validity of the interest claimed. Where a document gives rise to the interest claimed, the document must be lodged at HMLR. The usual land register entry (in respect of an option) is:

*Option to purchase in favour of [name] contained in a [document or deed] dated [date] made between [names of parties] upon the terms therein mentioned.*

*NOTE: copy filed.*

36. An application under the unilateral notice procedure does not require the document creating the interest to be lodged, if the applicant gives sufficient indication that the interest for which protection is sought is an interest in land. An applicant is not required to satisfy the Registrar of the validity of a claim, although the Registrar must be satisfied that the interest claimed is of a type that is protectable by notice. A typical entry might read:

*UNILATERAL NOTICE in respect of an estate contract dated [date].*

*BENEFICIARY: [Name] of [address]*

Sometimes a copy of the agreement is filed, in which case the entry will note 'copy filed'.

## Restrictions

37. Beneficiaries may also protect their rights using restrictions. A restriction is an entry in the land register that prohibits the making of another entry in the register to record a sale or lease or mortgage of the land without a specified condition being met, such as the consent of a third party.

38. A restriction can only be used where the registered owner's powers to sell the land are limited, or a prior condition must be met before a sale can be registered. Such limitations on the owner's powers may be included in an estate contract or option. A restriction cannot be used to protect the priority of an interest that could be protected by a notice.

39. A restriction does not confer priority or protect the option itself (which is the purpose of a notice). The restriction is protecting the agreement not to transfer without consent, rather than the estate contract or option itself.

40. Applications for a restriction are often made by the registered owner (or by somebody entitled to be registered as owner) or with their consent. If an applicant is not the owner or acting with their consent, then an applicant has to explain their interest and produce evidence of it to satisfy the Registrar that its entry was 'necessary or desirable' for one of a number of reasons.<sup>13</sup>

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<sup>13</sup> See s42 of the LRA 2002.

# Proposals for Reform

41. The following proposals have been developed with two principles in mind:

- securing the public interest in greater transparency, and
- limiting the burdens on business

## Securing the Public Interest

42. The opening of the land register in 1990 established the principle that there is a public interest in open access to information on land ownership. However, without better data on contractual controls the public cannot fully understand who exercises control over land, which may be more important than knowing who the legal owner is. The Government considers that there is a public interest in the publication of better data on land that is subject to contractual controls, the nature of those controls, and their beneficiaries.

43. However, the data held by HMLR on rights of pre-emption, options and estate contracts are limited and difficult to access and interpret. HMLR is unable to provide an estimate of the number of titles that are subject to these types of contractual controls.

44. Therefore, the Government proposes to collect additional data that will allow the public to easily understand what land is subject to a contractual control, who is the beneficiary of that control and on what terms control is exercised.

45. Councils and local communities will immediately benefit as they will be able to better understand who owns and controls land in their area. The additional data will also provide the Government with a sound evidence base from which to identify inefficiencies in the land market.

46. A new contractual controls dataset will also enable the PropTech sector to create tools and applications to reduce the time and cost of site identification and assessment by local planning authorities and developers. A reduction in these costs will assist SME builders and lower the barriers to entry for firms seeking to enter the residential construction market.

47. As the public interest lies mainly in land that could be used for development, it is not proposed to collect data on an individual's contractual arrangements or rights relating to the purchase or lease of a domestic residence, testamentary options or statutory rights<sup>14</sup>.

## Minimising the Burdens on Business

48. The Government is mindful of the need to minimise new burdens on businesses and individuals and proposes to work with the grain of the existing land registration system.

49. A failure to note an interest on the land register may result in financial and legal risk to both parties. If an interest is not protected, the related land may be sold to a third party without its provisions being binding on the new owner. If an interest is unenforceable against third parties because of non-registration, the grantor may be liable in damages to the beneficiary.

50. The Government understands that most of the interests on which it wishes to collect additional data are generally protected by a notice. It proposes to rely primarily on the self-interest of beneficiaries to note their interest on the land register and adapt the current agreed notice system for registered land to incorporate the collection of additional data.

51. It also does not propose to extend the new system to holders of contractual control interests over unregistered land. The procedure for protecting beneficiaries' rights is separate and distinct and it will disappear once comprehensive registration is achieved.

## Implementation

52. Implementation will require primary and secondary legislation, for example, to expand the functions of HMLR to collect additional data on certain types of interest, to introduce new requirements around the use of notices, and to provide a statutory definition of contractual controls.

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<sup>14</sup> Statutory rights include a tenant's right to acquire the freehold reversion or an extended lease of a house under the Leasehold Reform Act 1967, or of flats under the Leasehold Reform Housing and Urban Development Act 1993, rights of pre-emption under Part I of the Landlord and Tenant Act 1987 or the right to buy under the Housing Act 1985.

# Questions

## The Public interest

53. For the reasons set out above, the Government considers that there is a strong public interest in collating and publishing additional data on:

- rights of pre-emption;
- options, and
- estate contracts.

### **Question 1: The Public Interest**

Do you think there is a public interest in collating and publishing additional data on contractual controls over land?

Please give reasons.

## Definitional Principles

54. The Government wishes to precisely target additional data requirements to avoid placing unnecessary costs on parties to normal residential or commercial transactions and their professional advisers. It would welcome views on the best ways of identifying those contractual control interests it is concerned with.

### **Rights of pre-emption and options**

55. Rights of pre-emption and options are subject to Stamp Duty Land Tax<sup>15</sup> and must be identified so that due tax is paid. The Government proposes to use the same definition in the Finance Act 2003, s. 46, subject to the exemptions below, as the basis for defining rights of pre-emption and options that will be subject to additional data requirements.

56. The Government will exempt statutory options, testamentary options and rights of pre-emption and options held by individuals relating to the purchase or lease of residential property for use as a domestic residence from additional data requirements. The final class of exempted options would lose their exemption if the option was dependent on the fulfilment or non-fulfilment of a condition that required planning permission.

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<sup>15</sup> <https://www.gov.uk/hmrc-internal-manuals/stamp-duty-land-tax-manual/sdlitm01300>.

**Question 2: Rights of pre-emption and options**

(a) Do you think that the definition of rights of pre-emption and land options in the Finance Act 2003, s. 46<sup>16</sup> is a suitable basis for defining rights of pre-emption and options that will be subject to additional data requirements?

Please give reasons.

(b) Is the exemption for options and rights of pre-emption for the purchase or lease of residential property for use as a domestic residence sufficient to cover:

- options relating to the provision of occupational housing and
- shared ownership schemes?

Please give reasons.

(c) Are there any types of rights of pre-emption or options that do not fall under the scope of the definition in the Finance Act 2003, s. 46?

Please give reasons.

**Estate contracts**

57. The Government is not interested in collecting additional data on most estate contracts. It wishes to target a narrow subset of these contracts—long term conditional contracts—that relate to the development of land.

58. It proposes to limit the scope of additional data requirements to estate contracts through a completion date and conditionality test, i.e. contracts that:

- may complete outside of a six-month period from exchange of contracts, and
- include a condition for which the grant of planning permission would be required if it were to be met.

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<sup>16</sup> Options and rights of pre-emption

(1) The acquisition of—

- (a) an option binding the grantor to enter into a land transaction, or
- (b) a right of pre-emption preventing the grantor from entering into, or restricting the right of the grantor to enter into, a land transaction,

is a land transaction distinct from any land transaction resulting from the exercise of the option or right.

They may be “linked transactions” (see section 108).

(2) The reference in subsection (1)(a) to an option binding the grantor to enter into a land transaction includes an option requiring the grantor either to enter into a land transaction or to discharge his obligations under the option in some other way.

**Question 3: Estate contracts**

Are the tests set out above sufficient to avoid inadvertently capturing transactions not related to the development of land?

If not, please give examples.

**Other contractual controls**

59. The Government wishes to include all types of contractual arrangements that allow a third party to exercise control over the purchase or sale of land.

**Question 4: Other contractual controls**

(a) Are there any contractual arrangements by which control can be exercised over the purchase or sale of land, which should be included within this regime and which are not rights of pre-emption, options or estate contracts?

Please give examples.

(b) If so, do you consider them (i) an interest in land (interests that are capable of being protected by way of a notice on the land register); or (ii) not an interest in land?

Please give reasons.

## Data Requirements and Releases

**Data requirements**

60. To realise the benefits of greater transparency set out above, the Government proposes to place some additional data on the land register and to publish—free of charge—a contractual control interests dataset. Other data collected under this regime will be limited to official use and shared across government for the purposes of national security, law enforcement and financial stability. Full details of proposed additional data requirements for each type of contractual control interest can be found in Annex A.

**Question 5: Data requirements**

- (a) Are there any data fields that (i) should; or (ii) should not be subject to additional data requirements?  
Please give reasons.
- (b) Are there any data fields that (i) should; or (ii) should not be placed on the land register?  
Please give reasons.
- (c) Are there any data fields that (i) should; or (ii) should not be included in a contractual control interest dataset?  
Please give reasons.
- (d) Are there other data fields that should be collected?  
Please give reasons.
- (e) Do any of the data fields give rise to privacy risks?  
Please give reasons.

**Prejudicial information**

61. Under the Land Registration Act 2002, there is a general right to inspect the land register, documents kept by the registrar that are referred to in the land register, and other documents that relate to applications (which includes the application forms themselves); that general right is subject to exceptions that are provided for in Land Registration Rules 2003.<sup>17</sup> The rules allow a person to apply for 'prejudicial information' to be excluded from the general right to inspect, which can, in appropriate circumstances, include commercially sensitive information. The Government intends to retain the current procedures for excluding prejudicial information contained within the supporting documentation<sup>18</sup> except for the additional data that needs to be provided under the new regime.

**Contractual conditions**

62. Simply publishing data on land that is subject to a contractual control interests may limit the gains from greater transparency. There may be benefits in collecting more granular data on the conditions included in estate contracts or options to assist councils and local communities in better understanding the likely pattern of development. Table One below sets out data on conditions that the Government considers might be of interest to councils and local communities.

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<sup>17</sup> See rules 136 to 138 of the Land Registration Rules 2003.

<sup>18</sup> Practice guide 57: exempting documents from the general right to inspect and copy, available at <https://www.gov.uk/government/publications/exempting-documents-from-the-general-right-to-inspect-and-copy/practice-guide-57-exempting-documents-from-the-general-right-to-inspect-and-copy>



**Table One**

Field	Description	On land register	In dataset
Conditions	Planning permission or other?	N	Y
Planning permission type	Outline; Full	N	Y
Usage type	Residential; Commercial; Mixed	N	Y
Number of units (in bands)	Number of units (residential & commercial)	N	Y
Square footage (in bands)	Office	N	Y

**Question 6: Contractual conditions**

- (a) Are there any data fields that (i) should; or (ii) should not be subject to additional data requirements?  
Please give reasons.
- (b) Are there any data fields that (i) should; or (ii) should not be placed on the land register?  
Please give reasons.
- (c) Are there any data fields that (i) should; or (ii) should not be included in a contractual control interest dataset?  
Please give reasons.

**Legal Entity Identifiers**

63. To understand how much land is subject to contractual control interests and who the beneficiaries are, the Government proposes to ask all legal entities that are beneficiaries of contractual control interests to provide a Legal Entity Identifier (LEI).

64. The Legal Entity Identifier (LEI) is a 20-digit, alpha-numeric code that was originally developed to provide a clear and unique identification of corporate entities participating in financial transactions. Further information on LEIs can be found at <https://www.gleif.org/en/about-lei/introducing-the-legal-entity-identifier-lei>.

65. Large companies often have numerous subsidiaries and it can be difficult to link a particular legal entity to the ultimate parent company. A requirement for beneficiaries to hold an LEI would greatly simplify the process for establishing 'who owns whom' as legal entities that have an LEI will report their 'direct accounting consolidating parent' as well as their 'ultimate accounting consolidating parent'. The ability to link the subsidiaries holding a contractual control interest to their parents will provide valuable data on the extent to which particular groups may be influencing local land markets.

**Question 7: Legal Entity Identifiers**

Should legal entities that are beneficiaries of contractual arrangements be asked to provide a Legal Entity Identifier?

Please give reasons.

**Data currency**

66. The counterparties and other important details of contractual arrangements may change over time. To ensure that the land register remains accurate, the Government is considering requiring holders of contractual control interests to update the additional data on the occurrence of certain events. It proposes that if a contractual control interest is subject to variation, assignment or novation updated data should be provided.

**Question 8: Data currency**

(a) Should beneficiaries be required to provide updated information on:

- variation
- termination, or
- assignment or novation?

Please give reasons.

(b) Are there other ways in which data currency could be maintained?

67. Alternatively, the inclusion of a contractual control interest on an entity's balance sheet could provide the trigger for the provision of additional data for interests that had been varied, terminated, assigned or novated.

**Question 9: Accounting treatment**

If your organisation is required to produce annual accounts, when are: (i) rights of pre-emption; (ii) options; and (iii) estate contracts recognised on the balance sheet?

Please give reasons and state the accounting standard used.

**Existing contractual control interests**

68. Many contractual control interests last for a number of years. Therefore, the Government would like views on whether the requirement to provide additional data should be extended to existing arrangements. It could be unduly burdensome to ask beneficiaries to collate and provide additional information on all their contractual control interests, so the Government proposes to limit the need to provide additional data to those existing contractual control interests that are varied, assigned or novated. If the additional data were not provided within a certain timescale, protection would be lost.

**Question 10: Existing contractual control interests**

(a) Should the requirement to supply additional data be limited to: (i) new contractual control interests only; or (ii) all extant interests?

Please give reasons.

(b) How long should beneficiaries of an extant contractual control interests that is varied, assigned or novated be given to provide additional data before losing protection: (i) three months; or six months?

**Current beneficiaries**

69. HMLR may not hold up-to-date information on current beneficiaries or be able to identify the interest as one caught by the new regime, so the Government would welcome views on how best to inform current beneficiaries of the need to provide additional data on their interests.

**Question 11: Current beneficiaries**

What are the best ways of informing current beneficiaries of the need to provide additional data?

Please give reasons.

## Data provision

**Notice system**

70. To minimise the burdens on businesses and individuals, the Government proposes that parties to contractual control interests would not be able to apply for an agreed notice until additional data had been supplied. For these interests the ability to use a unilateral notice will be removed as is the case for some other notable interests.<sup>19</sup>

71. Once the additional data have been provided, an agreed notice can be applied for in the normal manner. Failure to provide the additional data required will mean that an application for an agreed notice will not be processed by HMLR.

**A digital process?**

72. The Government wishes to make the process for providing additional data as simple as possible. Therefore, in line with the Digital by Default policy, it proposes that the process for capturing additional data on contractual arrangements should be wholly digital (with assisted digital support if required).

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<sup>19</sup> See rule 80 of the Land Registration Rules 2003.

**Question 12: A digital process?**

Should the provision of additional data prior to the application process for an agreed notice be exclusively digital (with assisted digital support if required)?

Please give reasons.

## Enforcement

### Certification

73. Although it is in both parties' interests to note a contractual control interest on the land register, the Government would like views on options to make notification mandatory in certain cases.

74. As most contractual control arrangements are likely to be held by legal entities, whose boards have a duty to protect their entity's assets, the Government proposes a new requirement on beneficiaries of contractual control interests to certify in the annual accounts that all relevant interests are the subject of an agreed notice.

**Question 13: Certification**

Should beneficiaries of contractual control interests with a duty to produce annual accounts be required to certify that all relevant interests have been noted?

Please give reasons.

## Restrictions

75. It is possible that if additional data requirements are introduced as a pre-condition for an application for an agreed notice, beneficiaries might be tempted to forgo the protection of a notice and seek to protect their interests by way of a restriction. There are a number of options to address this risk on which the Government would welcome views.

76. One response would be to require beneficiaries of contractual control interests to obtain an agreed notice before they could apply for a restriction. Alternatively, the benefits of a restriction might be limited or removed where it was being used to protect an interest subject to this regime and where no corresponding agreed notice was on the land register. Finally, the Law Commission proposes in its report on land registration that the Secretary of State be given a power 'to make rules to determine: whether particular types of contractual obligation cannot be capable of protection by way of a restriction...' If this recommendation is accepted, the Government will consider whether contractual control interests should fall into the category of interests that cannot be capable of protection by a way of a restriction.

**Question 14: Restrictions**

- (a) Should beneficiaries of contractual control interests be required to obtain an agreed notice before they could apply for a restriction?  
Please give reasons.
- (b) Should the protections of restrictions placed on an un-noted contractual control interest be (i) limited; or (ii) removed?  
Please give reasons.
- (c) If the Government accepts the Law Commission's recommendation on restrictions, should contractual control interest fall into the category of interest that cannot be capable of protection by way of a restriction?  
Please give reasons.

## Alternative Options

77. The Government is keen to work, as far as possible, with the grain of the existing notice system. However, it would also welcome views on alternative options to achieve its requirements.

**Question 15: Alternative options**

- (a) Should a mandatory system be introduced whereby the beneficiary of a contractual control interest would, where it is possible to do so, be required to note their interest with HMLR?  
Please give reasons.
- (b) If so, how should the system be enforced?  
Please give reasons.

## Costs and Benefits

78. The Government will use responses to this call for evidence to refine its proposals and thus would like a better understanding of their costs. Its preference is to work with the grain of the existing notice system and limit additional data requirements to data that should be readily available to beneficiaries.

**Current Practice**

79. The Government would be grateful for further information on the ways in which beneficiaries currently protect their interests.

<b>Question 16: Current practice</b>					
(a) If you are a beneficiary of a right of pre-emption, option or estate contract, please indicate how you protect your interest.					
	<b>Notice</b>		<b>Restriction</b>	<b>Other</b>	<b>Do not protect</b>
	<b>Agreed</b>	<b>Unilateral</b>			
Right of pre-emption					
Option					
Estate contract					
(b) What factors influence your choice? Please give reasons.					

### Data collation and provision

80. The Government proposes that additional data should be provided digitally at the same time as an application for an agreed notice.

<b>Question 17: Data collation and provision</b>
(a) Are there any data fields in Annex A that contracting parties would not have readily to hand? Please list them.
(b) What is your estimate of the time needed to provide the additional data?
(c) Does your entity hold a Legal Entity Identifier?

### Data currency

81. The Government is considering requiring legal entities that are required to produce annual accounts to update the land register if a contractual control interest is subject to one of the following events:

- termination, or;
- assignment or novation.

<b>Question 18: Data currency</b>
What additional work (over and above the time and cost of preparing annual accounts) would your organisation need to undertake to identify contractual control interests that needed to be updated?

### Certification

82. It is also considering placing a duty for the board of a legal entity to certify that all relevant contractual control interests have been noted.

**Question 19: Certification**

What additional work (over and above the time and cost of preparing annual accounts) would your organisation need to undertake to certify in your organisation's annual accounts that all relevant contractual control interests had been noted on the land register where the land is registered?

**Economic impact****Question 20: Economic impact**

What impact, if any, do you think that these proposals will have on the English land market (residential and commercial)?  
Please describe the effects and provide evidence.

**Costs****Question 21: Costs**

What impact, if any, do you think that these proposals will have on the costs incurred by participants in the English land market (residential and commercial)?  
Please describe the effects and provide evidence.

**Benefits**

83. The Government would also like to collect evidence on monetisable and non-monetisable benefits.

84. It would be interested to know more about the costs related to identifying and understanding land burdened by a contractual control interest.

**Question 22: Identifying and understanding contractual control interests**

- (a) Can you estimate the amount of (i) time and (ii) money that you have spent on identifying land affected by a contractual control interest?
- (b) What is the source of your information?
- (c) Can you estimate the amount of (i) time and (ii) money that you have spent on seeking professional advice on exactly how a contractual control interest affects a piece of land?

85. It is also interested in the effect of contractual control interests on the operation of the land market and citizens' trust in the planning system.

**Question 23: Market impact**

- (a) If you are a small or medium enterprise (SME) builder or developer, do contractual controls hinder your ability to assess the viability of a local market?  
Please give reasons.
- (b) If you are an SME builder or developer, does a lack of freely accessible and understandable data act as a barrier to you entering the market?  
Please give reasons.

**Question 24: Trust in the planning system**

- (a) Do you think that a lack of accessible and understandable data on contractual controls makes it more difficult for local communities to understand the likely pattern of development?  
Please give reasons.
- (b) If so, to what extent does it undermine trust and confidence in the planning system:  
(i) not much; (ii) somewhat; (iii) a great deal?  
Please give reasons.

**Public Sector Equality Duty**

86. Under the Public Sector Equality Duty, the Government is required to have due regard to the need to:

- eliminate unlawful discrimination, harassment, victimisation and any other conduct prohibited by the Equality Act 2010;
- advance equality of opportunity between people who share a protected characteristic and people who do not share it, and
- foster good relations between people who share a protected characteristic and people who do not share it.

**Question 25: Public Sector Equality Duty**

What impact, if any, do you think that these proposals will have on people who share protected characteristics<sup>20</sup>? Please describe the effects and provide evidence.

**Wales**

87. HMLR is responsible for land registration in England and Wales. There may be operational benefits in not operating different systems relating to the capturing of data about contractual control interests and their protection on the land register. However, the

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<sup>20</sup> The Equality Duty covers the following protected characteristics: age; disability; gender reassignment; pregnancy and maternity; race (this includes ethnic or national origins, colour or nationality); religion or belief (this includes lack of belief); sex; and sexual orientation.



UK Government will not extend a contractual control interest regime to Wales without canvassing the views of its people and seeking the consent of the Welsh Government.

**Question 26: Wales**

Should a contractual control interest regime be extended to Wales?

Please give reasons.

# Annex A: Proposed data requirements

	Field	Description	On land register	In dataset	Official Use Only
Common Fields	Unique transaction identifier		N	Y	N
	Contract Type	Right of pre-emption, option or estate contract	Y	Y	N
	Contracting Party One (beneficiary)	If firm	Y	Y	N
		If individual	Y	N	Y
	Beneficiary type	Firm or individual	N	Y	Y
	Registration number of Contracting Party One (beneficiary)	Companies House Number or equivalent	Y	Y	N
	Legal Entity Identifier of Contracting Party One (beneficiary)	LEI Code	Y	Y	N
	Contracting Party Two	If firm	Y	Y	N
		If individual	Y	N	N
	Reporter type	Firm or individual	N	Y	N
	Registration number of Contracting Party Two	Companies House Number or equivalent	Y	Y	N
	Legal Entity Identifier of Contracting Party Two	LEI Code	Y	Y	N
	Effective Date or Start Date	The date a contract becomes effective or starts.	Y	Y	N

	Longstop Date	The day an agreement expires.	Y	Y	N
	Interim termination provisions	Can the agreement be terminated before the longstop date.	N	Y	N
	In perpetuity	Is the agreement in perpetuity.	Y	Y	N
	Assignable?	Is the Agreement capable of being assigned, charged or mortgaged	N	Y	N
	Solicitor Name	Name of solicitor	N	N	Y
	Law Firm	Name of solicitor firm	N	N	Y
	SRA number	Solicitor's Regulation Authority number	N	N	Y
	Conveyancer Name	Name of licensed	N	N	Y
	Conveyancer Firm	Name of licensed conveyancer firm	N	N	Y
	Conveyancer Firm Number	Council for Licensed Conveyancers number	N	N	Y
	Geospatial and location data	Location and details of land effected	N	Y	N
	Area		N	Y	N
	HMLR Title Number		N/A	Y	N
<b>Estate Contracts</b>	Conditional?	Is the contract conditional?	N	Y	N
	Extendable	Is the agreement extendable?	N	Y	N
	Deposit	Deposit paid	N	N	Y
	Price Type	Fixed; Fixed with indexation; Market; Floor	N	N	Y
	Price Amount	If fixed	N	N	Y
	Index	If fixed with indexation, index to be used	N	N	Y
<b>Options</b>	Option Type	E.g. put, call, put	N	Y	N

		and call			
	Lockout Period	Date of first allowable exercise.	N	Y	N
	Option Premium	Fixed premium paid by the grantee to the grantor.	N	N	Y
	Price Type	Fixed; Fixed with indexation; Market; Floor	N	N	Y
	Price Amount	If fixed	N	N	Y
	Index	If fixed with indexation, index to be used	N	N	Y
<b>Rights of pre-emption</b>	Fee	Fee paid	N	N	Y

# About this consultation

This consultation document and consultation process have been planned to adhere to the Consultation Principles issued by the Cabinet Office.

Representative groups are asked to give a summary of the people and organisations they represent, and where relevant who else they have consulted in reaching their conclusions when they respond.

Information provided in response to this consultation, including personal data, may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 2018 (DPA), the General Data Protection Regulation, and the Environmental Information Regulations 2004).

If you want the information that you provide to be treated as confidential, please be aware that, as a public authority, the Department is bound by the Freedom of Information Act and may therefore be obliged to disclose all or some of the information you provide. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

The Ministry of Housing, Communities and Local Government will process your personal data in accordance with the law and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties.

Individual responses will not be acknowledged unless specifically requested.

Your opinions are valuable to us. Thank you for taking the time to read this document and respond.

Are you satisfied that this consultation has followed the Consultation Principles? If not or you have any other observations about how we can improve the process please contact us via the [complaints procedure](#).

# Personal data

The following is to explain your rights and give you the information you are be entitled to under data protection legislation.

These rights apply to your personal data (your name, direct contact details such as an email address, and any other information that could be used to identify you personally).

## **1. The identity of the data controller and contact details of our Data Protection Officer**

The Ministry of Housing, Communities and Local Government (MHCLG) is the data controller. The Data Protection Officer can be contacted at [dataprotection@communities.gov.uk](mailto:dataprotection@communities.gov.uk).

## **2. Why we are collecting your personal data**

Your personal data is being collected as an essential part of the consultation process, so that we can contact you regarding your response and for statistical purposes. We may also use it to contact you about related matters.

## **3. Our legal basis for processing your personal data**

Article 6(1)(e) of the General Data Protection Regulation 2016 (GDPR) provides that processing shall be lawful if processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller. Section 8(d) of the Data Protection Act 2018 further provides that this shall include processing of personal data that is necessary for the exercise of a function of the Crown, a Minister of the Crown or a government department.

The processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the Ministry of Housing, Communities and Local Government. The task is consulting on departmental policies or proposals or obtaining opinion data in order to develop good effective government policies in relation to planning.

## **4. With whom we will be sharing your personal data**

We will not share your personal data with organisations outside of MHCLG without contacting you for your permission first.

## **5. For how long we will keep your personal data, or criteria used to determine the retention period.**

Your personal data will be held for two years from the closure of the consultation.

## **6. Your rights, e.g. access, rectification, erasure**

The data we are collecting is your personal data, and you have considerable say over what happens to it. You have the right:

- a. to see what data we have about you
- b. to ask us to stop using your data, but keep it on record
- c. to ask to have all or some of your data deleted or corrected
- d. to lodge a complaint with the independent Information Commissioner (ICO) if you think we are not handling your data fairly or in accordance with the law.

You can contact the ICO at <https://ico.org.uk/>, or telephone 0303 123 1113.

## **7. Storage of your personal data**

The Data you provide directly will be stored by MHCLG's appointed third-party on their servers. We have taken all necessary precautions to ensure that your rights in terms of data protection will not be compromised by this.

- 8. Your personal data will not be used for any automated decision making.







Ministry of Housing,  
Communities &  
Local Government

# PLANNING FOR THE FUTURE

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White Paper August 2020









# Contents

Scope of the consultation	4
Ministerial Foreword	6
Introduction	10
Pillar One – Planning for development	26
Pillar Two – Planning for beautiful and sustainable places	44
Pillar Three – Planning for infrastructure and connected places	60
Delivering change	68
What happens next	74
Annex A	78



# Scope of the consultation

Topic of this consultation:	This consultation seeks any views on each part of a package of proposals for reform of the planning system in England to streamline and modernise the planning process, improve outcomes on design and sustainability, reform developer contributions and ensure more land is available for development where it is needed.
Scope of this consultation:	<p>This consultation covers a package of proposals for reform of the planning system in England, covering plan-making, development management, development contributions, and other related policy proposals.</p> <p>Views are sought for specific proposals and the wider package of reforms presented.</p>
Geographical scope:	These proposals relate to England only.
Impact Assessment:	The Government is mindful of its responsibility to have regard to the potential impact of any proposal on the Public Sector Equality Duty. In each part of the consultation we would invite any views on the duty. We are also seeking views on the potential impact of the package as a whole on the Public Sector Equality Duty.

# Basic information

To:	This consultation is open to everyone. We are keen to hear from a wide range of interested parties from across the public and private sectors, as well as from the general public.
Body/bodies responsible for the consultation:	Ministry of Housing, Communities and Local Government
Duration:	This consultation will last for 12 weeks from 6 August 2020.
Enquiries:	For any enquiries about the consultation please contact <a href="mailto:planningforthefuture@communities.gov.uk">planningforthefuture@communities.gov.uk</a> .
How to respond:	<p>You may respond by going to our website <a href="https://www.gov.uk/government/consultations/planning-for-the-future">https://www.gov.uk/government/consultations/planning-for-the-future</a></p> <p>Alternatively you can email your response to the questions in this consultation to <a href="mailto:planningforthefuture@communities.gov.uk">planningforthefuture@communities.gov.uk</a>.</p> <p>If you are responding in writing, please make it clear which questions you are responding to.</p> <p>Written responses should be sent to: Planning for the Future Consultation, Planning Directorate, 3rd Floor, Fry Building, 2 Marsham Street, London SW1P 4DF.</p> <p>When you reply it would be very useful if you confirm whether you are replying as an individual or submitting an official response on behalf of an organisation and include:</p> <ul style="list-style-type: none"><li>• your name,</li><li>• your position (if applicable), and</li><li>• the name of organisation (if applicable).</li></ul>

# Foreword from the Prime Minister

**I never cease to be amazed by the incredible potential of this country. The vast array of innovations and talent that, when combined with our extraordinary can-do spirit, has brought forth everything from the jet engine to gene editing therapy.**

But as we approach the second decade of the 21st century that potential is being artificially constrained by a relic from the middle of the 20th – our outdated and ineffective planning system.

Designed and built in 1947 it has, like any building of that age, been patched up here and there over the decades.

Extensions have been added on, knocked down and rebuilt according to the whims of whoever's name is on the deeds at the time. Eight years ago a new landlord stripped most of the asbestos from the roof.

But make-do-and-mend can only last for so long and, in 2020, it is no longer fit for human habitation.

Thanks to our planning system, we have nowhere near enough homes in the right places. People cannot afford to move to where their talents can be matched with opportunity. Businesses cannot afford to grow and create jobs. The whole thing is beginning to crumble and the time has come to do what too many have for too long lacked the courage to do – tear it down and start again.

That is what this paper proposes.

Radical reform unlike anything we have seen since the Second World War.

Not more fiddling around the edges, not simply painting over the damp patches, but levelling the foundations and building, from the ground up, a whole new planning system for England.

One that is simpler, clearer and quicker to navigate, delivering results in weeks and months rather than years and decades.

That actively encourages sustainable, beautiful, safe and useful development rather than obstructing it.

That makes it harder for developers to dodge their obligations to improve infrastructure and opens up housebuilding to more than just the current handful of massive corporations.

That gives you a greater say over what gets built in your community.

That makes sure start-ups have a place to put down roots and that businesses great and small have the space they need to grow and create jobs.

And, above all, that gives the people of this country the homes we need in the places we want to live at prices we can afford, so that all of us are free to live where we can connect our talents with opportunity.


Getting homes built is always a controversial business. Any planning application, however modest, almost inevitably attracts objections and I am sure there will be those who say this paper represents too much change too fast, too much of a break from what has gone before.

But what we have now simply does not work.

So let's do better. Let's make the system work for all of us. And let's take big, bold steps so that we in this country can finally build the homes we all need and the future we all want to see.

**The Rt. Hon. Boris Johnson MP**  
Prime Minister



A portrait of Boris Johnson, a man with blonde hair, wearing a dark blue suit, white shirt, and blue tie. He is looking directly at the camera with a slight smile. The background is blurred, showing what appears to be a bookshelf.

"The homes we need in the places we want to live in at prices we can afford, so that all of us are free to live where we can connect our talents with opportunity."

# Foreword from the Secretary of State

**The outbreak of COVID-19 has affected the economic and social lives of the entire nation. With so many people spending more time at home than ever before, we have come to know our homes, gardens and local parks more intimately. For some this has been a welcome opportunity to spend more time in the place they call home with the people they love. For others – those in small, substandard homes, those unable to walk to distant shops or parks, those struggling to pay their rent, or indeed for those who do not have a home of their own at all – this has been a moment where longstanding issues in our development and planning system have come to the fore.**

Such times require decisive action and a plan for a better future. These proposals will help us to build the homes our country needs, bridge the present generational divide and recreate an ownership society in which more people have the security and dignity of a home of their own.

Our proposals seek a significantly simpler, faster and more predictable system. They aim to facilitate a more diverse and competitive housing industry, in which smaller builders can thrive alongside the big players, where all pay a fair share of the costs of infrastructure and the affordable housing existing communities require and where permissions are more swiftly turned into homes.

We are cutting red tape, but not standards. This Government doesn't want to just build houses. We want a society that has re-established powerful links between identity and place, between our unmatched architectural heritage and the future, between community and purpose. Our reformed system places a higher regard on quality, design and local vernacular than ever before, and draws inspiration from the idea of design codes and pattern books that built Bath, Belgravia and Bournville. Our guiding principle will be as Clough Williams-Ellis said to cherish the past, adorn the present and build for the future.

We will build environmentally friendly homes that will not need to be expensively retrofitted in the future, homes with green spaces and new parks at close hand, where tree lined streets are the norm and where neighbours are not strangers.

We are moving away from notices on lampposts to an interactive and accessible map-based online system – placing planning at the fingertips of people. The planning process will be brought into the 21st century. Communities will be reconnected to a planning process that is supposed to serve them, with residents more engaged over what happens in their areas.

While the current system excludes residents who don't have the time to contribute to the lengthy and complex planning process, local democracy and accountability will now be enhanced by technology and transparency.


Reforming the planning system isn't a task we undertake lightly, but it is both an overdue and a timely reform. Millions of jobs depend on the construction sector and in every economic recovery, it has played a crucial role.

This paper sets out how we will reform the planning system to realise that vision and make it more efficient, effective and equitable. I am most grateful to the taskforce of experts who have generously offered their time and expert advice as we have developed our proposals for reform – Bridget Rosewell, Miles Gibson, Sir Stuart Lipton, Nicholas Boys Smith, and Christopher Katkowski QC.

**The Rt. Hon. Robert Jenrick MP**

Secretary of State for Housing, Communities and Local Government



A portrait of a man with short, dark brown hair, wearing a dark navy blue suit jacket, a white dress shirt, and a dark green tie. He is looking directly at the camera with a neutral expression. The background is a blurred indoor setting with green foliage on the left and a window or glass partition on the right.

“These proposals will help us to build the homes our country needs, bridge the present generational divide and recreate an ownership society in which more people have the dignity and security of a home of their own.”

# Introduction

## The challenge we face – an inefficient, opaque process and poor outcomes

The planning system is central to our most important national challenges: tackling head on the shortage of beautiful, high quality homes and places where people want to live and work; combating climate change; improving biodiversity; supporting sustainable growth in all parts of the country and rebalancing our economy; delivering opportunities for the construction sector, upon which millions of livelihoods depend; the ability of more people to own assets and have a stake in our society; and our capacity to house the homeless and provide security and dignity.<sup>1</sup>

To succeed in meeting these challenges, as we must, the planning system needs to be fit for purpose. It must make land available in the right places and for the right form of

development. In doing this, it must ensure new development brings with it the schools, hospitals, surgeries and transport local communities need, while at the same time protecting our unmatched architectural heritage and natural environment.

There is some brilliant planning and development. And there are many brilliant planners and developers. But too often excellence in planning is the exception rather than the rule, as it is hindered by several problems with the system as it stands:

- It is too complex: the planning system we have today was shaped by the Town and Country Planning Act 1947, which established planning as nationalised and discretionary in character. Since then, decades of reform have built complexity, uncertainty and delay into the system. It now works best for large investors and companies, and worst for those without the resources to manage a process beset by risk and uncertainty. A simpler framework would better support a more competitive market with a greater diversity of developers, and more resilient places.
- Planning decisions are discretionary rather than rules-based: nearly all decisions to grant consent are undertaken on a case-by-case basis, rather than determined by clear rules for what can and cannot be done. This makes the English planning system and those derived from it an exception internationally, and it has the important consequences of increasing planning risk, pushing up the cost of capital for development and discouraging both

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innovation and the bringing forward of land for development.<sup>2</sup> Decisions are also often overturned – of the planning applications determined at appeal, 36 per cent of decisions relating to major applications and 30 per cent of decisions relating to minor applications are overturned.<sup>3</sup>

- It takes too long to adopt a Local Plan: although it is a statutory obligation to have an up-to-date Local Plan in place, only 50 per cent of local authorities (as of June 2020) do, and Local Plan preparation takes an average of seven years (meaning many policies are effectively out of date as soon as they are adopted).
- Assessments of housing need, viability and environmental impacts are too complex and opaque: land supply decisions are based on projections of household and business 'need' typically over 15- or 20-year periods. These figures are highly contested and do not provide a clear basis for the scale of development to be planned for. Assessments of environmental impacts and viability add complexity and bureaucracy but do not necessarily lead to environmental improvements nor ensure sites are brought forward and delivered.
- It has lost public trust with, for example, a recent poll finding that only seven per cent trusted their local council to make decisions about large scale development that will be good for their local area (49 per cent and 36 per cent said they distrusted developers and local authorities respectively).<sup>4</sup> And consultation is dominated by the few willing and able to navigate the process – the voice of those who stand to gain from development is not heard loudly enough, such as young people. The importance of local participation in planning is now the focus of a campaign by the Local Government Association but this involvement must be accessible to all people.<sup>5</sup>

The planning system is based on 20th-century technology: planning systems are reliant on legacy software that burden the sector with repetitive tasks.





- It is based on 20th-century technology: planning systems are reliant on legacy software that burden the sector with repetitive tasks. The planning process remains reliant on documents, not data, which reduces the speed and quality of decision-making. The user experience of the planning system discourages engagement, and little use is made of interactive digital services and tools. We have heard that for many developers the worst thing that can happen is for the lead local authority official to leave their job – suggesting a system too dependent on the views of a particular official at a particular time, and not transparent and accessible requirements shaped by communities.
- The process for negotiating developer contributions to affordable housing and infrastructure is complex, protracted and unclear: as a result, the outcomes can be uncertain, which further diminishes trust in the system and reduces the ability of local planning authorities to plan for and deliver necessary infrastructure. Over 80 per cent of planning authorities agree that planning obligations cause delay.<sup>6</sup> It also further increases planning risk for developers and landowners, thus discouraging development and new entrants.
- There is not enough focus on design, and little incentive for high quality new homes and places: There is insufficient incentive within the process to bring forward proposals that are beautiful and which will enhance the environment, health, and character of local areas. Local Plans do not provide enough certainty around the approved forms of development, relying on vague and verbal statements of policy rather than the popularly endorsed visual clarity that can be provided by binding design codes. This means that quality can be negotiated away too readily and the lived experience of the consumer ignored too readily.



- It simply does not lead to enough homes being built, especially in those places where the need for new homes is the highest. Adopted Local Plans, where they are in place, provide for 187,000 homes per year across England – not just significantly below our ambition for 300,000 new homes annually, but also lower than the number of homes delivered last year (over 241,000).<sup>7</sup> The result of long-term and persisting undersupply is that housing is becoming increasingly expensive, including relative to our European neighbours. In Italy, Germany and the Netherlands, you can get twice as much housing space for your money compared to the UK.<sup>8</sup> We need to address the inequalities this has entrenched.

A poor planning process results in poor outcomes. Land use planning and development control are forms of regulation, and like any regulation should be predictable and accessible, and strike a fair balance between consumers, producers and wider society. But too often the planning system is unpredictable, too difficult to engage with or understand, and favours the biggest players in the market who are best able to negotiate and navigate through the process.

The Government has made significant progress in recent years in increasing house building, with construction rates at a 30-year high in 2019. But these fundamental issues in the system remain, and we are still lagging behind many of our European neighbours. And as the Building Better, Building Beautiful Commission found in its interim report last year, too often what we do build is low quality and considered ugly by local residents.<sup>9</sup>





The Government has made significant progress in recent years to increase house building, with construction rates at a 30-year high.





# A new vision for England's planning system

This paper and the reforms that follow are an attempt to rediscover the original mission and purpose of those who sought to improve our homes and streets in late Victorian and early 20th-century Britain. That original vision has been buried under layers of legislation and case law. We need to rediscover it.

Planning matters. Where we live has a measurable effect on our physical and mental health: on how much we walk, on how many neighbours we know or how tense we feel on the daily journey to work or school. Places affect us from the air that we breathe to our ultimate sense of purpose and wellbeing. This is a question of social justice too. Better off people experience more beauty than poorer people and can better afford the rising costs of homes. As a nation we need to do this better. Evidence from the Town and Country Planning Association (TCPA), the Royal Town Planning Institute (RTPI) and the Green Building Council to the Building Better Building Beautiful Commission all emphasised that the evidence on what people want and where they flourish is remarkably consistent.

The Government's planning reforms since 2010 have started to address the underlying issues:

- last year, we delivered over 241,000 homes, more new homes than at any point in the last 30 years;
- our reforms to change-of-use rules have supported delivery of over 50,000 new homes;
- the rate of planning applications granted has increased since 2010;<sup>10</sup>
- the National Planning Policy Framework, introduced in 2012, has greatly simplified the previously huge volume of policy;
- we have introduced a simplified formula for assessing housing need and clearer incentives for local authorities to have up-to-date plans in place;
- we have introduced greater democratic accountability over infrastructure planning, giving elected Ministers responsibility for planning decisions about this country's nationally significant energy, transport, water, wastewater and waste projects;
- we have continued to protect the Green Belt;

- protections for environmental and heritage assets – such as Areas of Outstanding Natural Beauty (AONBs), and Sites of Special Scientific Interest (SSSIs) and Conservation Areas – continue to protect our treasured countryside and historic places; and
- we have democratised and localised the planning process by abolishing the top-down regional strategies and unelected regional planning bodies, and empowered communities to prepare a plan for their area, through our introduction of neighbourhood planning – with over 2,600 communities taking advantage of our reforms so far.

But the simple truth is that decades of complexity and political argument have resulted in a system which is providing neither sufficient homes nor good enough new places. Nor is it fairly using the talents and passions of public sector planners who often feel over-worked and under-appreciated, trapped between the urgent need for more homes, an insufficiently competitive market and a policy framework which makes it almost impossible for them to insist upon beautiful and sustainable new homes and places.

The planning system needs to be better at unlocking growth and opportunity in all parts of the country, at encouraging beautiful new places, at supporting the careful stewardship and rebirth of town and city centres, and at supporting the revitalisation of existing buildings as well as supporting new development.

It is also time for the planning system finally to move towards a modernised, open data approach that creates a reliable national picture of what is happening where in planning, makes planning services more efficient, inclusive and consistent, and unlocks the data needed by property developers and the emerging Property Technology (PropTech) sector, to help them make more informed decisions on what to build and where.







We wish to:

- be more ambitious for the places we create, expecting new development to be beautiful and to create a 'net gain' not just 'no net harm';
- move the democracy forward in the planning process and give neighbourhoods and communities an earlier and more meaningful voice in the future of their area as plans are made, harnessing digital technology to make it much easier to access and understand information about specific planning proposals. More engagement should take place at the Local Plan phase;
- improve the user experience of the planning system, to make planning information easier to find and understand and make it appear in the places that discussions are happening, for example in digital neighbourhood groups and social networks. New digital engagement processes will make it radically easier to raise views about and visualise emerging proposals whilst on-the-go on a smart phone;
- support home ownership, helping people and families own their own beautiful, affordable, green and safe homes, with ready access to better infrastructure and green spaces;
- increase the supply of land available for new homes where it is needed to address affordability pressures, support economic growth and the renewal of our towns and cities, and foster a more competitive housing market;
- help businesses to expand with readier access to the commercial space they need in the places they want and supporting a more physically flexible labour market;
- support innovative developers and housebuilders, including small and medium-sized enterprises (SMEs) and self-builders, those looking to build a diverse range of types and tenure of housing, and those using innovative modern methods of construction (MMC);
- promote the stewardship and improvement of our precious countryside and environment, ensuring important natural assets are preserved, the development potential of brownfield land is maximised, that we support net gains for biodiversity and the wider environment and actively address the challenges of climate change; and
- create a virtuous circle of prosperity in our villages, towns and cities, supporting their ongoing renewal and regeneration without losing their human scale, inheritance and sense



of place. We need to build more homes at gentle densities in and around town centres and high streets, on brownfield land and near existing infrastructure so that families can meet their aspirations. Good growth will make it easier to level up the economic and social opportunities available to communities.

Underpinning this, we need to modernise the day-to-day operation of the planning system. Residents should not have to rely on planning notices attached to lamp posts, printed in newspapers or posted in libraries. The COVID-19 pandemic has highlighted the need for modern digital planning services that can be accessed from home, and many planners and local authorities have responded brilliantly to this challenge. The planning system must build on this success and follow other sectors in harnessing the benefits which digitisation can bring – real-time information, high-quality virtual simulation, straightforward end-to-end processes. It should be based on data, not documents, inclusive for all members of society, and stimulate the innovation of the great British design industry.

There are growing calls for change, and for the shape that it should take – based on a bold vision for end-to-end reform, rather than further piecemeal change within the existing system. Recent reports from think tanks and the Government-appointed Building Better, Building Beautiful Commission are the latest prominent voices to have added to the chorus.<sup>11</sup>





# Proposals

We will undertake fundamental reform of the planning system to address its underlying weaknesses and create a system fit for the 21st century. We want to hear your views on our proposals.

**First, we will streamline the planning process with more democracy taking place more effectively at the plan-making stage, and will replace the entire corpus of plan-making law in England to achieve this:**

- Simplifying the role of Local Plans, to focus on identifying land under three categories – *Growth* areas suitable for substantial development, and where outline approval for development would be automatically secured for forms and types of development specified in the Plan; *Renewal* areas suitable for some development, such as gentle densification; and *Protected* areas where – as the name suggests – development is restricted. This could halve the time it takes to secure planning permission on larger sites identified in plans. We also want to allow local planning authorities to identify sub-areas in their *Growth* areas for self- and custom-build homes, so that more people can build their own homes.
- Local Plans should set clear rules rather than general policies for development. We will set out general development management policies nationally, with a more focused role for Local Plans in identifying site- and area-specific requirements, alongside locally produced design codes. This would scale back the detail and duplication contained in Local Plans, while encouraging a much greater focus on design quality at the local level. Plans will be significantly shorter in length (we expect a reduction in size of at least two thirds), as they will no longer contain a long list of “policies” of varying specificity – just a core set of standards and requirements for development.
- Local councils should radically and profoundly re-invent the ambition, depth and breadth with which they engage with communities as they consult on Local Plans. Our reforms will democratise the planning process by putting a new emphasis on engagement at the plan-making stage. At the same time, we will streamline the opportunity for consultation at the planning application stage, because this adds delay to the process and allows a small minority of voices, some from the local area and often some not, to shape outcomes. We want to hear the views of a wide range of people and groups through this consultation on our proposed reforms.
- Local Plans should be subject to a single statutory “sustainable development” test, and unnecessary assessments and requirements that cause delay and challenge in the current system should be abolished. This would mean replacing the existing tests of soundness, updating requirements for assessments (including on the environment and viability) and abolishing the Duty to Cooperate.
- Local Plans should be visual and map-based, standardised, based on the latest digital technology, and supported by a new standard template. Plans should be significantly shorter in length, and limited to no more than setting out site- or area-specific parameters and opportunities.
- Local authorities and the Planning Inspectorate will be required through legislation to meet a statutory timetable (of no more than 30 months in total) for key stages of the process, and there will be sanctions for those who fail to do so.
- Decision-making should be faster and more certain, within firm deadlines, and should make greater use of data and digital technology.

## We will develop a comprehensive resources and skills strategy for the planning sector to support the implementation of our reforms

- We will seek to strengthen enforcement powers and sanctions so that as we move towards a rules-based system, communities can have confidence those rules will be upheld.
- We will develop a comprehensive resources and skills strategy for the planning sector to support the implementation of our reforms – so that, as we bring in our reforms, local planning authorities are equipped to create great communities through world-class civic engagement and proactive plan-making.

### **Second, we will take a radical, digital-first approach to modernise the planning process. This means moving from a process based on documents to a process driven by data. We will:**

- Support local planning authorities to use digital tools to support a new civic engagement process for Local Plans and decision-making, making it easier for people to understand what is being proposed and its likely impact on them through visualisations and other digital approaches. We will make it much easier for people to feed in their views into the system through social networks and via their phones.
- Insist local plans are built on standardised, digitally consumable rules and data, enabling accessible interactive maps that show what can be built where. The data will be accessed by software used across the public sector and also by external PropTech entrepreneurs to improve transparency, decision-making and productivity in the sector.
- Standardise, and make openly and digitally accessible, other critical datasets that the planning system relies on, including planning decisions and developer contributions. Approaches for fixing the underlying data are already being tested and developed by innovative local planning authorities and we are exploring options for how these could be scaled nationally.

- Work with tech companies and local authorities to modernise the software used for making and case-managing a planning application, improving the user-experience for those applying and reducing the errors and costs currently experienced by planning authorities. A new more modular software landscape will encourage digital innovation and will consume and provide access to underlying data. This will help automate routine processes, such as knowing whether new applications are within the rules, making decision-making faster and more certain.
- Engage with the UK PropTech sector through a PropTech Innovation Council to make the most of innovative new approaches to meet public policy objectives, help this emerging sector to boost productivity in the wider planning and housing sectors, and ensure government data and decisions support the sector's growth in the UK and internationally.

### **Third, to bring a new focus on design and sustainability, we will:**

- Ensure the planning system supports our efforts to combat climate change and maximises environmental benefits, by ensuring the National Planning Policy Framework targets those areas where a reformed planning system can most effectively address climate change mitigation and adaptation and facilitate environmental improvements.
- Facilitate ambitious improvements in the energy efficiency standards for buildings to help deliver our world-leading commitment to net-zero by 2050.
- Ask for beauty and be far more ambitious for the places we create, expecting new development to be beautiful, and to create a 'net gain' not just 'no net harm', with a greater focus on 'placemaking' and 'the creation of beautiful places' within the National Planning Policy Framework.

## “The Community Infrastructure Levy and the current system of planning will be reformed as a nationally set, value-based flat rate charge (the ‘Infrastructure Levy’).”

- Make it easier for those who want to build beautifully through the introduction of a fast-track for beauty through changes to national policy and legislation, to automatically permit proposals for high-quality developments where they reflect local character and preferences.
- Introduce a quicker, simpler framework for assessing environmental impacts and enhancement opportunities, that speeds up the process while protecting and enhancing England's unique ecosystems.
- Expect design guidance and codes – which will set the rules for the design of new development – to be prepared locally and to be based on genuine community involvement rather than meaningless consultation, so that local residents have a genuine say in the design of new development, and ensure that codes have real ‘bite’ by making them more binding on planning decisions.
- Establish a new body to support the delivery of design codes in every part of the country, and give permanence to the campaigning work of the Building Better, Building Beautiful Commission and the life of its co-chairman the late Sir Roger Scruton.
- Ensure that each local planning authority has a chief officer for design and place-making, to help ensure there is the capacity and capability locally to raise design standards and the quality of development.
- Lead by example by updating Homes England's strategic objectives to give greater emphasis to delivering beautiful places.
- Protect our historic buildings and areas while ensuring the consent framework is fit for the 21st century.

## **Fourth, we will improve infrastructure delivery in all parts of the country and ensure developers play their part, through reform of developer contributions. We propose:**

- The Community Infrastructure Levy and the current system of planning obligations will be reformed as a nationally set, value-based flat rate charge (the ‘Infrastructure Levy’). A single rate or varied rates could be set. We will aim for the new Levy to raise more revenue than under the current system of developer contributions, and deliver at least as much – if not more – on-site affordable housing as at present. This reform will enable us to sweep away months of negotiation of Section 106 agreements and the need to consider site viability. We will deliver more of the infrastructure existing and new communities require by capturing a greater share of the uplift in land value that comes with development.
- We will be more ambitious for affordable housing provided through planning gain, and we will ensure that the new Infrastructure Levy allows local planning authorities to secure more on-site housing provision.
- We will give local authorities greater powers to determine how developer contributions are used, including by expanding the scope of the Levy to cover affordable housing provision to allow local planning authorities to drive up the provision of affordable homes. We will ensure that affordable housing provision supported through developer contributions is kept at least at current levels, and that it is still delivered on-site to ensure that new development continues to support mixed communities. Local authorities will have the flexibility to use this funding to support both existing communities as well as new communities.
- We will also look to extend the scope of the consolidated Infrastructure Levy and remove exemptions from it to capture changes of use through permitted development rights, so that additional homes delivered through this route bring with them support for new infrastructure.

**Fifth, to ensure more land is available for the homes and development people and communities need, and to support renewal of our town and city centres, we propose:**

- A new nationally determined, binding housing requirement that local planning authorities would have to deliver through their Local Plans. This would be focused on areas where affordability pressure is highest to stop land supply being a barrier to enough homes being built. We propose that this would factor in land constraints, including the Green Belt, and would be consistent with our aspirations of creating a housing market that is capable of delivering 300,000 homes annually, and one million homes over this Parliament.
- To speed up construction where development has been permitted, we propose to make it clear in the revised National Planning Policy Framework that the masterplans and design codes for sites prepared for substantial development should seek to include a variety of development types from different builders which allow more phases to come forward together. We will explore further options to support faster build out as we develop our proposals for the new planning system.
- To provide better information to local communities, to promote competition amongst developers, and to assist SMEs and new entrants to the sector, we will consult on options for improving the data held on contractual arrangements used to control land.
- To make sure publicly owned land and public investment in development supports thriving places, we will:
  - ensure decisions on the locations of new public buildings – such as government offices and further education colleges – support renewal and regeneration of town centres; and
  - explore how publicly owned land disposal can support the SME and self-build sectors.



# The change we will see – a more engaging, equitable and effective system

Our proposals will greatly improve the user experience of the planning system, making it fit for the next century.

**Residents** will be able to engage in a much more democratic system that is open to a wider range of people whose voice is currently not heard. Residents will no longer have to rely on planning notices attached to lamp posts, printed in newspapers and posted in libraries to find out about newly proposed developments. Instead people will be able to use their smartphone to give their views on Local Plans and design codes as they are developed, and to see clearer, more visual information about development proposals near them – rather than current planning policies and development proposals presented in PDF documents, hundreds of pages long. And existing and new residents alike will gain from more affordable, green and beautiful homes near to where they want to live and work.

**Communities** will be able to trust the planning system again as their voice will be heard from the beginning of the process and better use of digital technology will make it radically easier for people to understand what is being proposed in their neighbourhoods and provide new ways to feed their views into the reformed system. Local Plans will be developed over a fixed 30-month period with clear engagement points, rather than the current inconsistent process which takes seven years on average. The Infrastructure Levy will be more transparent than Section 106, and local communities will have more control over how it is spent. Communities will be able to set standards for design upfront through local design codes. And with more land available for homes where they are most needed, and a renewed focus on the beauty of new development, communities will be able to grow organically and sustainably, and development will enhance places for everyone.

**Innovators, entrepreneurs and businesses** will benefit from a planning system that is much more adaptable to the changing needs of the economy. A greater amount of land available near to workplaces, and a more flexible approach to how that land can be used, will make it

Innovators and businesses will benefit from a planning system that is much more adaptable to the changing need of the economy.





much easier for firms to set up and expand in the most productive locations – for example, spin-out companies looking to set up near to research-intensive universities. A reformed system that is based upon data, rather than documents will help to provide the data that innovators and entrepreneurs, including the burgeoning PropTech sector, need to build new technology to help improve citizen engagement and planning processes.

**Small builders, housing associations and those building their own home**, will find this system much easier, less costly and quicker to navigate, with more land available for development and clearer expectations on the types of development permitted, helping them to find development opportunities and use innovative construction methods. With permission for the principle of development secured automatically in many cases, a major hurdle in the process will be removed, taking two to three years out of the process. The system of developer contributions will make it much easier for smaller developers, who will not have to engage in months of negotiation and can instead get on with the job of building. And a shorter, more certain process will remove significant risk from the process, lowering the need for developers to secure long development pipelines and lowering the regulatory barriers to entry that currently exist in the market. A data-led planning system will help developers of all sizes and experience to find the planning information they need to understand what can be built and where, which will provide greater certainty to them and their investors.

**Local authorities**, including mayoral combined authorities, will be liberated to plan and able to focus on what they do best, with the shackles of current burdensome assessments and negotiations removed. They will be able to give more attention to improving the quality of new development and focus on those large and special sites that need the most consideration. And the Government will support modernisation of the planning process so that routine tasks are automated and decision-making, and plan-making, is improved by better access to the data local authorities need.

**And for our children and grandchildren**, our reforms will leave an inheritance of environmental improvement – with environmental assets protected, more green spaces provided, more sustainable development supported, new homes that are much more energy-efficient and new places that can become the heritage of the future, built closer to where people want to live and work to reduce our reliance on carbon-intensive modes of transport.

This consultation document does not address every detailed part of the planning system, its function and objectives, but rather focuses on the key reforms that can help improve the delivery and quality of homes and neighbourhoods, set within our drive towards net-zero greenhouse gas emissions by 2050.

And fixing the planning system alone will not be enough – it will require a collective effort between Government, communities, businesses and developers over the long term. But fixing the planning system should be the starting point for these efforts.



# Pillar One – Planning for development

## Overview

The starting point for an effective planning system is to establish a clear and predictable basis for the pattern and form of development in an area. The current system of land use planning in England is principally based on Local Plans, brought forward by local planning authorities on behalf of their communities. But in contrast to planning systems in places like Japan, the Netherlands and Germany, where plans give greater certainty that development is permitted in principle upfront, plans in England are policy-based, with a separate process required to secure permission on the sites that it designates for development.

Local Plans are a good foundation on which to base reform, as they provide a route for local requirements to be identified and assessed, a forum for political debate and for different views on the future of areas to be heard. The National Planning Policy Framework provides a clear basis for those matters that are best set in national policy.

However, change is needed. Layers of assessment, guidance and policy have broadened the scope of Local Plans, requiring a disproportionate burden of evidence to support them. As a result, Local Plans take increasingly long to produce, on average over seven years; have become lengthier documents of increasing complexity, in some cases stretching to nearly 500 pages; are underpinned by vast swathes of evidence base documents, often totalling at least ten times the length of the plan itself, and none of which are clearly linked, standardised, or produced in accessible formats; and include much unnecessary repetition of national policy.

It is difficult for users of the planning system to find the information they need, and when they do, it is difficult to understand. Few people read the array of evidence base documents which accompany plans and these assessments do not sufficiently aid decision-making. Much of this evidence becomes dated very quickly, and production times often render policies out of date as soon as they are adopted. Furthermore, even when the plan is in place, it cannot be relied on as the definitive statement of how development proposals should be handled.

Local Plans should instead be focused on where they can add real value: allocating enough land for development in the right places, giving certainty about what can be developed on that land, making the process for getting permission for development as simple as possible, and providing local communities a genuine opportunity to shape those decisions. To this end, Local Plans should:

- be based on transparent, clear requirements for local authorities to identify appropriate levels of, and locations for, development that provide certainty and that applicants and communities can easily understand;
- communicate key information clearly and visually so that plans are accessible and easily understandable, and communities can engage meaningfully in the process of developing them;
- be published as standardised data to enable a strategic national map of planning to be created;
- be developed using a clear, efficient and standard process;
- benefit from a radically and profoundly re-invented engagement with local communities so that more democracy takes place effectively at the plan-making stage; and
- set clear expectations on what is required on land that is identified for development, so that plans give confidence in the future growth of areas and facilitate the delivery of beautiful and sustainable places.

## Questions

1. What three words do you associate most with the planning system in England?
- 2(a). Do you get involved with planning decisions in your local area?  
[Yes / No]
- 2(b). If no, why not?  
[Don't know how to / It takes too long / It's too complicated / I don't care / Other – please specify]
3. Our proposals will make it much easier to access plans and contribute your views to planning decisions. How would you like to find out about plans and planning proposals in the future?  
[Social media / Online news / Newspaper / By post / Other – please specify]
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]





## Proposals

We propose a new role for Local Plans and a new process for making them, by replacing the existing primary and secondary legislation.

### A NEW APPROACH TO PLAN-MAKING

Local Plans should have a clear role and function, which should be, first, to identify land for development and sites that should be protected; and, second, to be clear about what development can take place in those different areas so that there is greater certainty about land allocated for development and so that there is a faster route to securing permission. They should be assessed against a single statutory “sustainable development” test to ensure plans strike the right balance between environmental, social and economic objectives.

**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*.**

All areas of land would be put into one of these three categories:

- *Growth* areas “suitable for substantial development” – we propose that the term substantial development be defined in policy to remove any debate about this descriptor. We envisage this category would include land suitable for comprehensive development, including new settlements and urban extension sites, and areas for redevelopment, such as former industrial sites or urban regeneration sites. It could also include proposals for sites such as



those around universities where there may be opportunities to create a cluster of growth-focused businesses. Sites annotated in the Local Plan under this category would have outline approval for development (see proposal 5 for more detail). Areas of flood risk would be excluded from this category (as would other important constraints), unless any risk can be fully mitigated;

- *Renewal* areas “suitable for development” – this would cover existing built areas where smaller scale development is appropriate. It could include the gentle densification and infill of residential areas, development in town centres, and development in rural areas that is not annotated as *Growth* or *Protected* areas, such as small sites within or on the edge of villages. There would be a statutory presumption in favour of development being granted for the uses specified as being suitable in each area. Local authorities could continue to consider the case for resisting inappropriate development of residential gardens;
- Areas that are *Protected* – this would include sites and areas which, as a result of their particular environmental and/or cultural characteristics, would justify more stringent development controls to ensure sustainability. This would include areas such as Green Belt, Areas of Outstanding Natural Beauty (AONBs), Conservation Areas, Local Wildlife Sites, areas of significant flood risk and important areas of green space. At a smaller scale it can continue to include gardens in line with existing policy in the National Planning Policy Framework. It would also include areas of open countryside outside of land in *Growth* or *Renewal* areas. Some areas would be defined nationally, others locally on the basis of national policy, but all would be annotated in Local Plan maps and clearly signpost the relevant development restrictions defined in the National Planning Policy Framework.

This new-style Local Plan would comprise an interactive web-based map of the administrative area where data and policies are easily searchable, with a key and accompanying text. Areas and sites would be annotated and colour-coded in line with their *Growth*, *Renewal* or *Protected* designation, with explanatory descriptions set out in the key and accompanying text, as appropriate to the category.

In *Growth* and *Renewal* areas, the key and accompanying text would set out suitable development uses, as well as limitations on height and/or density as relevant. These could be specified for sub-areas within each category, determined locally but having regard to national policy, guidance and legislation (including the National Model Design Code and

flexibilities in use allowed by virtue of the new Use Classes Order and permitted development). For example, it may be appropriate for some areas to be identified as suitable for higher-density residential development, or for high streets and town centres to be identified as distinct areas. In *Growth* areas, we would also want to allow sub-areas to be created specifically for self and custom-build homes, and community-led housing developments, to allow a range of housing aspirations to be met and help create diverse and flourishing communities. In the case of self and custom-build homes, local authorities should identify enough land to meet the requirements identified in their self-build and custom housebuilding registers. For *Protected* areas, the key and accompanying text would explain what is permissible by cross-reference to the National Planning Policy Framework.

Alternative options: Rather than dividing land into three categories, we are also interested in views on more binary models. One option is to combine *Growth* and *Renewal* areas (as defined above) into one category and to extend permission in principle to all land within this area, based on the uses and forms of development specified for each sub-area within it.

An alternative approach would be to limit automatic permission in principle to land identified for substantial development in Local Plans (*Growth* areas); other areas of land would, as now, be identified for different forms of development in ways determined by the local planning authority (and taking into account policy in the National Planning Policy Framework), and subject to the existing development management process.

## Question

**5. Do you agree that Local Plans should be simplified in line with our proposals?  
[Yes / No / Not sure. Please provide supporting statement.]**

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

With the primary focus of plan-making on identifying areas for development and protection, we propose that development management policy contained in the plan would be restricted to clear and necessary site or area-specific requirements, including broad height limits, scale and/or density limits for land included in *Growth* areas and *Renewal* areas, established through the accompanying text. The National Planning Policy Framework would become the primary source of policies for development management; there would be no provision for the inclusion of generic development management policies which simply repeat national policy within Local Plans, such as protections for listed buildings (although we are interested in views on the future of optional technical standards). We propose to turn plans from long lists of general “policies” to specific development standards.

Local planning authorities and neighbourhoods (through Neighbourhood Plans) would play a crucial role in producing required design guides and codes to provide certainty and reflect local character and preferences about the form and appearance of development. This is important for making plans more visual and engaging. These could be produced for a whole local authority area, or for a smaller area or site (as annotated in the Local Plan), or a combination of both. Design guides and codes would ideally be produced on a ‘twin track’ with the Local Plan, either for inclusion within the plan or prepared as supplementary planning documents.

We want to move to a position where all development management policies and code requirements, at national, local and neighbourhood level, are written in a machine-readable format so that wherever feasible, they can be used by digital services to automatically screen developments and help identify where they align with policies and/or codes.

This will significantly increase clarity for those wishing to bring forward development, enabling automation of more binary considerations and allowing for a greater focus on those areas where there is likely to be greater subjectivity.

Alternative options: Rather than removing the ability for local authorities to include general development management policies in Local Plans, we could limit the scope of such policies to specific matters and standardise the way they are written, where exceptional circumstances necessitate a locally-defined approach. Another alternative would be to allow local authorities a similar level of flexibility to set development management policies as under the current Local Plans system, with the exception that policies which duplicate the National Planning Policy Framework would not be allowed.

### 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.]

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

This would consider whether the plan contributes to achieving sustainable development in accordance with policy issued by the Secretary of State. The achievement of sustainable development is an existing and well-understood basis for the planning system, and we propose that it should be retained.



“A simpler test, as well as more streamlined plans, should mean fewer requirements for assessments that add disproportionate delay to the plan-making process. ”

A simpler test, as well as more streamlined plans, should mean fewer requirements for assessments that add disproportionate delay to the plan-making process.

Specifically:

- we propose to abolish the Sustainability Appraisal system and develop a simplified process for assessing the environmental impact of plans, which would continue to satisfy the requirements of UK and international law and treaties (see our proposals under Pillar Two);
- the Duty to Cooperate test would be removed (although further consideration will be given to the way in which strategic cross-boundary issues, such as major infrastructure or strategic sites, can be adequately planned for, including the scale at which plans are best prepared in areas with significant strategic challenges); and
- a slimmed down assessment of deliverability for the plan would be incorporated into the “sustainable development” test.

Plans should be informed by appropriate infrastructure planning, and sites should not be included in the plan where there is no reasonable prospect of any infrastructure that may be needed coming forward within the plan period. Plan-making policies in the National Planning Policy Framework will make this clear.

The new-style digital Local Plan would also help local planning authorities to engage with strategic cross-boundary issues and use data-driven insights to assess local infrastructure needs to help decide what infrastructure is needed and where it should be located.

- Alternative option: Rather than removing the existing tests of soundness, an alternative option could be to reform them in order to make it easier for a suitable strategy to be found sound. For example, the tests could become less prescriptive about the need to demonstrate deliverability. Rather than demonstrating deliverability, local authorities could be required to identify a stock of reserve sites which could come forward for development if needed.

### 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?**

**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.**

Local Plans will need to identify areas to meet a range of development needs – such as homes, businesses and community facilities – for a minimum period of 10 years. This includes land needed to take advantage of local opportunities for economic growth, such as commercial space for spin-out companies near to university research and development facilities, or other high productivity businesses.

Debates about housing numbers tend to dominate this process, and a standard method for setting housing requirements would significantly reduce the time it takes to establish the amount of land to release in each area. This has historically been a time-consuming process which ultimately has not led to enough land being released where it is most needed (as reflected by worsening affordability). A standard requirement would differ from the current system of local housing need in that it would be binding, and so drive greater land release.

It is proposed that the standard method would be a means of distributing the national housebuilding target of 300,000 new homes annually, and one million homes by the end of the Parliament, having regard to:

- the size of existing urban settlements (so that development is targeted at areas that can absorb the level of housing proposed);
- the relative affordability of places (so that the least affordable places where historic under-supply has been most chronic take a greater share of future development);

- the extent of land constraints in an area to ensure that the requirement figure takes into account the practical limitations that some areas might face, including the presence of designated areas of environmental and heritage value, the Green Belt and flood risk. For example, areas in National Parks are highly desirable and housing supply has not kept up with demand; however, the whole purpose of National Parks would be undermined by multiple large scale housing developments so a standard method should factor this in;
- the opportunities to better use existing brownfield land for housing, including through greater densification. The requirement figure will expect these opportunities to have been utilised fully before land constraints are taken into account;
- the need to make an allowance for land required for other (non-residential) development; and
- inclusion of an appropriate buffer to ensure enough land is provided to account for the drop off rate between permissions and completions as well as offering sufficient choice to the market.

The standard method would make it the responsibility of individual authorities to allocate land suitable for housing to meet the requirement, and they would continue to have choices about how to do so: for example through more effective use of existing residential land, greater densification, infilling and brownfield redevelopment, extensions to existing urban areas, or new settlements. The existing policy for protecting the Green Belt would remain. We also propose that it would be possible for authorities to agree an alternative distribution of their requirement in the context of joint planning arrangements. In particular, it may be appropriate for Mayors of combined authorities to oversee the strategic distribution of the requirement in a way that alters the distribution of numbers, and this would be allowed for.

In the current system the combination of the five-year housing land supply requirement, the Housing Delivery Test and the presumption in favour of sustainable development act as a check to ensure that enough land comes into the system. Our proposed approach should ensure that enough land is planned for, and with sufficient certainty about its availability for development, to avoid a continuing requirement to be able to demonstrate



a five-year supply of land. However, having enough land supply in the system does not guarantee that it will be delivered, and so we propose to maintain the Housing Delivery Test and the presumption in favour of sustainable development as part of the new system.

Alternative option: It would be possible to leave the calculation of how much land to include in each category to local decision, but with a clear stipulation in policy that this should be sufficient to address the development needs of each area (so far as possible subject to recognised constraints), taking into account market signals indicating the degree to which existing needs are not being met. As now, a standard method could be retained to underpin this approach in relation to housing; and it would be possible to make changes to the current approach that ensure that meeting minimum need is given greater weight to make sure sufficient land comes forward. However, we do not think that this approach would carry the same benefits of clarity and simplicity as our preferred option, and would also require additional safeguards to ensure that adequate land remains available, especially once the assessment of housing need has been translated into housing requirements. We would, therefore, propose to retain a five-year housing land supply requirement with this approach.

We have published a separate consultation on proposed changes to the standard method for assessing local housing need which is currently used in the process of establishing housing requirement figures. The future application of the formula proposed in the revised standard method consultation will be considered in the context of the proposals set out here. In particular, the methodology does not yet adjust for the land constraints, including Green Belt. We will consider further the options for doing this and welcome proposals.

### 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.]



## 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.**

There will therefore be no need to submit a further planning application to test whether the site can be approved. Where the Local Plan has identified land for development, planning decisions should focus on resolving outstanding issues – not the principle of development.

In areas suitable for substantial development (*Growth* areas) an outline permission for the principle of development would be conferred by adoption of the Local Plan. Further details would be agreed and full permission achieved through streamlined and faster consent routes which focus on securing good design and addressing site-specific technical issues.

Detailed planning permission could be secured in one of three ways:

- a reformed reserved matters process for agreeing the issues which remain outstanding;
- a Local Development Order prepared by the local planning authority for the development which could be prepared in parallel with the Local Plan and be linked to a master plan and design codes; or
- for exceptionally large sites such as a new town where there are often land assembly and planning challenges, we also want to explore whether a Development Consent Order under the Nationally Significant Infrastructure Projects regime could be an appropriate

route to secure consents. Similarly, we will consider how the planning powers for Development Corporations can be reformed to reflect this new framework.

In areas suitable for development (*Renewal* areas), there would be a general presumption in favour of development established in legislation (achieved by strengthening the emphasis on taking a plan-led approach, with plans reflecting the general appropriateness of these areas for development). Consent for development would be granted in one of three ways:

- for pre-specified forms of development such as the redevelopment of certain building types, through a new permission route which gives an automatic consent if the scheme meets design and other prior approval requirements (as discussed further under the fast-track to beauty proposals set out under Pillar Two);
- for other types of development, a faster planning application process where a planning application for the development would be determined in the context of the Local Plan description, for what development the area or site is appropriate for, and with reference to the National Planning Policy Framework; or
- a Local or Neighbourhood Development Order.

In both the *Growth* and *Renewal* areas it would still be possible for a proposal which is different to the plan to come forward (if, for example, local circumstances had changed suddenly, or an unanticipated opportunity arose), but this would require a specific planning application. We expect this to be the exception rather than the rule: to improve certainty in the system, it will be important for everyone to have confidence that the plan will be the basis for decisions, and so we intend to strengthen the emphasis on a plan-led approach in legislation (alongside giving appropriate status to national planning policy for general development management matters).

In areas where development is restricted (*Protected* areas) any development proposals would come forward as now through planning applications being made to the local authority (except where they are subject to permitted development rights or development orders), and judged against policies set out in the National Planning Policy Framework.

We will consider the most effective means for neighbours and other interested parties to address any issues of concern where, under this system, the principle of development has been established leaving only detailed matters to be resolved.

Separate to these reforms, we also intend to consolidate other existing routes to permission which have accumulated over time, including simplified planning zones, enterprise zones and brownfield land registers.

The route to full planning permission should follow clearly and directly from the designation made in the Local Plan.

### 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 / Not sure. Please provide supporting statement.]



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

For all types of planning applications regardless of the category of land, we want to see a much more streamlined and digitally enabled end to end process which is proportionate to the scale and nature of the development proposed, to ensure decisions are made faster. The well-established time limits of eight or 13 weeks for determining an application from validation to decision should be a firm deadline – not an aspiration which can be got around through extensions of time as routinely happens now.

To achieve this, we propose:

- the greater digitalisation of the application process to make it easier for applicants, especially those proposing smaller developments, to have certainty when they apply and engage with



local planning authorities. In particular, the validation of applications should be integrated with the submission of the application so that the right information is provided at the start of the process. For Spending Review, the Government will prepare a specific, investable proposal for modernising planning systems in local government;

- a new, more modular, software landscape to encourage digital innovation and provide access to underlying data. This will help automate routine processes, such as knowing whether new applications are within the rules, which will support faster and more certain decision-making. We will work with tech companies and local planning authorities to modernise the software used for case-managing a planning application to improve the user-experience for those applying and reduce the errors and costs currently experienced by planning authorities;
- shorter and more standardised applications. The amount of key information required as part of the application should be reduced considerably and made machine-readable. A national data standard for smaller applications should be created. For major development, beyond



relevant drawings and plans, there should only be one key standardised planning statement of no more than 50 pages to justify the development proposals in relation to the Local Plan and National Planning Policy Framework;

- data-rich planning application registers will be created so that planning application information can be easily found and monitored at a national scale, and new digital services can be built to help people use this data in innovative ways;
- data sets that underpin the planning system, including planning decisions and developer contributions, need to be standardised and made open and digitally accessible;
- a digital template for planning notices will be created so that planning application information can be more effectively communicated and understood by local communities and used by new digital services;
- greater standardisation of technical supporting information, for instance about local highway impacts, flood risk and heritage matters. We envisage design codes will help to reduce the need for significant supplementary information, but we recognise there may still need to be site specific information to mitigate wider impacts. For these issues, there should be clear national data standards and templates developed in conjunction with statutory consultees;
- clearer and more consistent planning conditions, with standard national conditions to cover common issues;
- a streamlined approach to developer contributions, which is discussed further under Pillar Three;
- the delegation of detailed planning decisions to planning officers where the principle of development has been established, as detailed matters for consideration should be principally a matter for professional planning judgment.

We also believe there should be a clear incentive on the local planning authority to determine an application within the statutory time limits. This could involve the automatic refund of the planning fee for the application if they fail to determine it within the time limit. But we also want to explore whether some types of applications should be deemed to have been granted planning permission if there has not been a timely determination, to ensure targets are met and local authorities keep to the time limit in the majority of cases. We particularly want to ensure that the facilities and infrastructure that communities value, such as schools, hospitals and GP surgeries, are delivered quickly through the planning system.

There will remain a power to call in decisions by the Secretary of State and for applicants to appeal against a decision by a local planning authority. However, by ensuring greater certainty about the principle of development in Local Plans, we expect to see fewer appeals being considered by the Planning Inspectorate. For those that do go to appeal, we want to ensure the

appeals process is faster, with the Inspectorate more digitally responsive and flexible. And to promote proper consideration of applications by planning committees, where applications are refused, we propose that applicants will be entitled to an automatic rebate of their planning application fee if they are successful at appeal.

### Question

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

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



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

Planning documentation should reflect this simplified role for Local Plans and should support community engagement.

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

Interactive, map-based Local Plans will be built upon data standards and digital principles. To support local authorities in developing plans in this new format, we will publish a guide to the new Local Plan system and data standards and digital principles, including clearer expectations around the more limited evidence that will be expected to support “sustainable” Local Plans, accompanied by a “model” template for Local Plans and subsequent updates, well in advance of the legislation being brought into force. This will support standardisation of Local Plans across the country. The text-based component of plans should be limited to spatially-specific matters and capable of being accessible in a range of different formats, including through simple digital services on a smartphone.

To support open access to planning documents and improve public engagement in the plan-making process, plans should be fully digitised and web-based following agreed web standards rather than document based. This will allow for any updates to be published instantaneously and makes it easier to share across all parties and the wider public. Those digital plans should be carefully designed with the user in mind and to ensure inclusivity, so that they can be accessed in different formats, on different devices, and are accessible and understandable by all. Geospatial information associated with plans, such as sites and areas, should also be standardised and made openly available online. Taken together, these changes will enable a digital register of



planning policies to be created so that new digital services can be built using this data, and this will also enable any existing or future mapping platforms to access and visualise Local Plans. This will make it easier for anyone to identify what can be built where. The data will be accessed by software used across the public sector and also by external PropTech entrepreneurs to improve transparency, decision-making and productivity in the sector. There should also be a long-term aim for any data produced to support Local Plans to be open and accessible online in machine-readable format and linked to the relevant policies and areas.

By shifting plan-making processes from documents to data, new digital civic engagement processes will be enabled, making it easier for people to understand what is being proposed where and how it will affect them. These tools have the potential to transform how communities engage with Local Plans, opening up new ways for people to feed their views into the system, including through social networks and via mobile phones. Early pilots from local planning authorities using emerging digital civic engagement tools have shown increased public participation from a broader audience, with one PropTech SME reporting that 70% of their users are under the age of 45.<sup>18</sup>

To encourage this step-change, we want to support local authorities to radically rethink how they produce their Local Plans, and profoundly re-invent the ambition, depth and breadth with which they engage with communities. We will set up a series of pilots to work with local authorities and tech companies (the emerging 'PropTech' sector) to develop innovative solutions to support plan-making activities and make community involvement more accessible and engaging. This could include measures to improve access to live information and data or the use of 3D visualisations and other tools to support good community engagement.

#### Question

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

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





## A STREAMLINED, MORE ENGAGING PLAN-MAKING PROCESS

The average time taken from plan publication to adoption rose from an average of 450 days in 2009 to 815 days in 2019. There is currently no statutory requirement around timescales for key stages of the 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.**

Under the current system, it regularly takes over a decade for development sites to go through the Local Plan process and receive outline permission. Under our proposals, this would be shortened to 30 months, although we expect many local authorities could do this in a shorter time and we would encourage them to do so where this is practicable. We propose that the process covers five stages, with meaningful public engagement at two stages:

- Stage 1 [6 months]: The local planning authority “calls for” suggestions for areas under the three categories, including comprehensive “best in class” ways of achieving public involvement at this plan-shaping stage for where development should go and what it should look like.
- Stage 2 [12 months]: The local planning authority draws up its proposed Local Plan, and produces any necessary evidence to inform and justify the plan. “Higher-risk” authorities will receive mandatory Planning Inspectorate advisory visits, in order to ensure the plan is on track prior to submission.



- Stage 3 [6 weeks]: The local planning authority simultaneously
  - (i) submits the Plan to the Secretary of State for Examination together with a Statement of Reasons to explain why it has drawn up its plan as it has; and
  - (ii) publicises the plan for the public to comment on. Comments seeking change must explain how the plan should be changed and why. Again, this process would embody ‘best in class’ ways of ensuring public involvement. Responses will have a word count limit.
- Stage 4 [9 months]: A planning inspector appointed by the Secretary of State considers whether the three categories shown in the proposed Local Plan are “sustainable” as per the statutory test and accompanying national guidance and makes binding changes which are necessary to satisfy the test. The plan-making authority and all those who submitted comments would have the right to be “heard” by the inspector (whether face to face, by video, phone or in writing –all at the inspector’s discretion). The inspector’s report can, as relevant, simply state agreement with the whole or parts of the council’s Statement of Reasons, and/or comments submitted by the public.
- Stage 5 [6 weeks]: Local Plan map, key and text are finalised, and come into force.



Taken together, the effect of these reforms would be to greatly simplify and shorten the plan-making and development process, ensuring more land comes through the system and does so at pace.

To support the transition to the new system, we propose a statutory duty for local authorities to adopt a new Local Plan by a specified date – either 30 months from the legislation being brought into force, or 42 months for local planning authorities who have adopted a Local Plan within the previous three years or where a Local Plan has been submitted to the Secretary of State for examination. In the latter case, the 42 month period would commence from the point at which the legislation is brought into force, or upon adoption of the most recent plan, whichever is later.

This should be accompanied by a requirement for each planning authority to review its Local Plan at least every five years. Reviews should be undertaken sooner than five years where there has been a significant change in circumstances, for instance where issues with land supply have been identified through regular monitoring. Where a review concludes that an update is required, then the same 30-month deadline would apply although there would be an expectation that in many cases an update could be completed more quickly.

Local planning authorities that fail to do what is required to get their plan in place, or keep it up to date, would be at risk of government intervention. A range of intervention options will be available, including the issuing of directions and preparation of a plan in consultation with local people. Decisions on intervention would also have regard to:

- the level of housing requirement in the area;
- the planning context of the area, including any co-operation to get plans in place across local planning authority boundaries;
- any exceptional circumstances presented by the local planning authority.

Alternative options: The existing examination process could be reformed in order to speed up the process. For instance, the automatic 'right to be heard' could be removed so that participants are invited to appear at hearings at the discretion of the inspector. Certain Local Plans, that are less complex or controversial, could also be examined through written representations only, as is usually the case with Neighbourhood Plans at present.

A further alternative could be to remove the Examination stage entirely, instead requiring Local Planning Authorities to undertake a process of self-assessment against set criteria and guidance. To supplement this, the Planning Inspectorate could be utilised to audit a certain number of completed plans each year in order to assess whether the requirements of the statutory sustainability test had been met. However, there is a risk that this option wouldn't provide sufficient scrutiny around whether plans meet the necessary legal and policy tests.

### 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.]



**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**

Since statutory Neighbourhood Plans became part of the system in 2011, over 2,600 communities have started the process of neighbourhood planning to take advantage of the opportunity to prepare a plan for their own areas – and over 1,000 plans have been successfully passed at referendum. They have become an important tool in helping to ‘bring the democracy forward’ in planning, by allowing communities to think proactively about how they would like their areas to develop.

Therefore, we think Neighbourhood Plans should be retained in the reformed planning system, but we will want to consider whether their content should become more focused to reflect our proposals for Local Plans, as well as the opportunities which digital tools and data offer to support their development and improve accessibility for users. By making it easier to develop Neighbourhood Plans we wish to encourage their continued use and indeed to help spread their use further, particularly in towns and cities. We are also interested in whether there is scope to extend and adapt the concept so that very small areas – such as individual streets – can set their own rules for the form of development which they are happy to see.

Digital tools have significant potential to assist the process of Neighbourhood Plan production, including through new digital co-creation platforms and 3D visualisation technologies to explore proposals within the local context. We will develop pilot projects and data standards which help neighbourhood planning groups make the most of this potential.



## 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?**

## SPEEDING UP THE DELIVERY OF DEVELOPMENT

Our plans for a simpler and faster planning process need to be accompanied by a stronger emphasis on the faster delivery of development, especially for *Growth* areas where substantial development has been permitted. If local communities through the new Local Plan process have identified sites for substantial development over the next ten years and developers have secured planning consents, there should be a presumption that these sites will be built out quickly. But as Rt. Hon. Sir Oliver Letwin found in his Independent Review of Build Out Rates in 2018, the build out of large residential developments can be slow due to low market absorption rates, with some sites taking over 20 years to complete.

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

To address this, we propose to make it clear in the revised National Planning Policy Framework that the masterplans and design codes for sites prepared for substantial development (discussed under Pillar Two) should seek to include a variety of development types by different builders which allow more phases to come forward together. We will explore further options to support faster build out as we develop our proposals for the new planning system.

## 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.]

# Pillar Two – Planning for beautiful and sustainable places

## Overview

We have set out how a simpler planning process could improve certainty about what can be built where, as well as offering greater flexibility in the use of land to meet our changing economic and social needs. But improving the process of planning is only the starting point – we want to ensure that we have a system in place that enables the creation of beautiful places that will stand the test of time, protects and enhances our precious environment, and supports our efforts to combat climate change and bring greenhouse gas emissions to net-zero by 2050. Recent research from the Royal Town Planning Institute has set out the vital contribution that planning can make to a sustainable and inclusive recovery.<sup>12</sup>

To do this, planning should be a powerful tool for creating visions of how places can be, engaging communities in that process and fostering high quality development: not just beautiful buildings, but the gardens, parks and other green spaces in between, as well as the facilities which are essential for building a real sense of community. It should generate net gains for the quality of our built and natural environments - not just 'no net harm'.

As the report of the Building Better, Building Beautiful Commission has shown, all too often that potential has fallen short. Too many places built during recent decades fail to reflect what is special about their local area or create a high quality environment of which local people can be proud. The Commission has played an invaluable role not just in highlighting the deficiencies, but in setting out a wide range of recommendations for addressing them. We will respond fully to the Commission's report in the autumn, but there are important aspects that we want to highlight now, as being integral to our proposals for what a revised planning system can achieve.

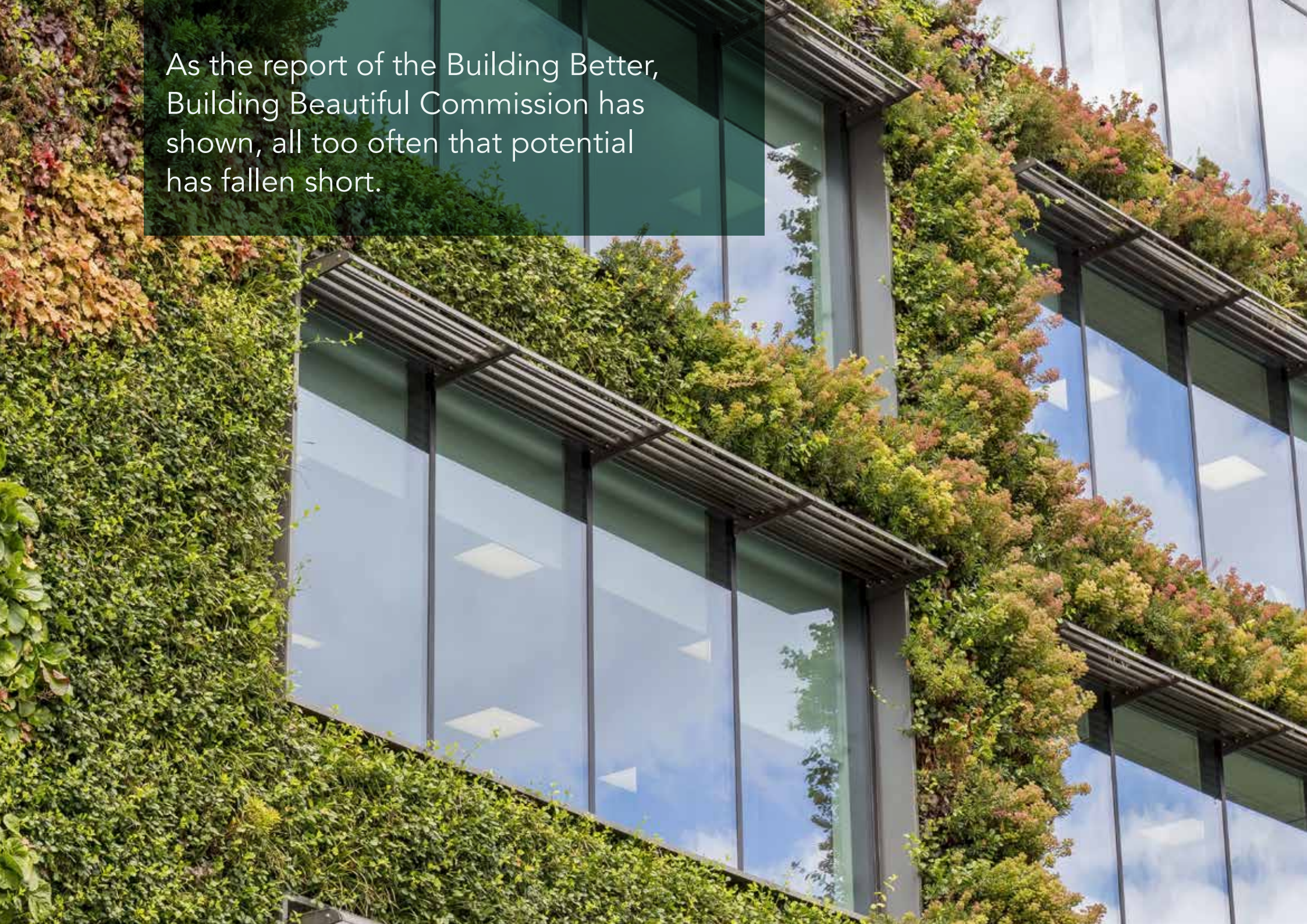
## Questions

- 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]





As the report of the Building Better, Building Beautiful Commission has shown, all too often that potential has fallen short.





## Proposals

### CREATING FRAMEWORKS FOR QUALITY

To deliver our vision, it is important for the planning system to set clear expectations for the form of development which we expect to see in different locations. It should do so in ways which reflect local character and community preferences, and the types of buildings and places that have stood the test of time; but it should also address modern lifestyles, facilitate modern methods of construction (and its associated benefits for efficiency, build quality and the environment) and the need to create places that are both durable and sustainable. History provides many examples of how we can do this well – including Georgian terraces and Victorian mansion blocks – and we should learn from what has worked in the past.

Our National Design Guide, published in October last year, illustrates how well-designed places that are beautiful, enduring and successful can be achieved in practice. It is a vital starting point, defining ten characteristics of successful places and the ingredients which can deliver these. However, to provide as much clarity as possible for applicants and communities and provide the basis for 'fast-tracking' decisions on design, broad principles need to be turned into more specific standards.

To address this challenge, this autumn we will publish a National Model Design Code to supplement the guide, setting out more detailed parameters for development in different types of location: issues such as the arrangement and proportions of streets and urban blocks, positioning and hierarchy of public spaces, successful parking arrangements, placement of street trees, and high quality cycling and walking provision, in line with our wider vision for cycling and walking in England.<sup>13</sup> It will be accompanied by worked examples, and complement a revised and consolidated Manual for Streets.





To deliver our vision, it is important for the planning system to set clear expectations for the form of development which we expect to see in different locations.







**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.**

As national guidance, we will expect the National Design Guide, National Model Design Code and the revised Manual for Streets to have a direct bearing on the design of new communities. But to ensure that schemes reflect the diverse character of our country, as well as what is provably popular locally, it is important that local guides and codes are prepared wherever possible. These play the vital role of translating the basic characteristics of good places into what works locally, and can already be brought forward in a number of ways: by local planning authorities to supplement and add a visual dimension to their Local Plans; through the work of neighbourhood planning groups; or by applicants in bringing forward proposals for significant new areas of development.

We propose that these different routes for bringing forward design guides and codes should remain, although in all cases it will be essential that they are prepared with effective inputs from the local community, considering empirical evidence of what is popular and characteristic in the local area. To underpin the importance of this, we intend to make clear that designs and codes should only be given weight in the planning process if they can demonstrate that this input has been secured. And, where this is the case, we will also make clear that decisions on design should be made in line with these documents. Where locally-produced guides and codes are not in place, we also propose to make clear in policy that the National Design Guide, National Model Design Code and Manual for Streets should guide decisions on the form of development.

### 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.]**

The Building Better, Building Beautiful Commission recommended several other changes to the National Planning Policy Framework that can support the planning system's role in fostering better buildings, places and settlements, and we will consult on changes which reflect these recommendations in the autumn.

**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.**

The vision which we have set out will require a step-change in the design skills available to many local planning authorities, as well as the right prioritisation and leadership across the sector. We recognise that this will not happen overnight, and that authorities will need support.

WWe will explore the options for establishing a new expert body which can help authorities make effective use of design guidance and codes, as well as performing a wider monitoring and challenge role for the sector in building better places. Different models exist for how this could be taken forward - such as a new arms-length body reporting to Government, a new centre of expertise within Homes England, or reinforcing the existing network of



architecture and design centres. Whatever model is adopted, we envisage that it would be able to draw on the expertise of recognised experts with a range of skills, drawn from across the built environment sector. Should the final proposals lead to the creation of new central government arm's-length body, then the usual, separate government approval process would apply for such entities.

We will also bring forward proposals later this year for improving the resourcing of planning departments more broadly; and our suggestions in this paper for streamlining plan-making will allow some re-focusing of professional skills. However, effective leadership within authorities will also be crucial. To drive a strong vision for what each place aspires to, and ensure this is integrated across council functions, we believe that each authority should appoint a chief officer for design and place-making, as recommended by the Building Better, Building Beautiful Commission.

### 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.]**

**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.**

We are committed to taking a leadership role in the delivery of beautiful and well-designed homes and places, which embed high environmental standards. The Building Better, Building Beautiful Commission recommended that Homes England should attach sufficient value to design as well as price, and give greater weight to design quality in its work.

The Government supports this recommendation and recognises that the work of Homes England is an important route through which we can lead by example. Homes England have already taken steps to champion design quality in their land disposals programme, through implementation of a design quality assessment approach, with a minimum standard which must be achieved for a proposal to progress.

However, we recognise that there is an opportunity to go further, and we will engage Homes England, as part of the forthcoming Spending Review process, to consider how its objectives might be strengthened to give greater weight to design quality, and assess how design quality and environmental standards can be more deeply embedded in all Homes England's activities and programmes of work.

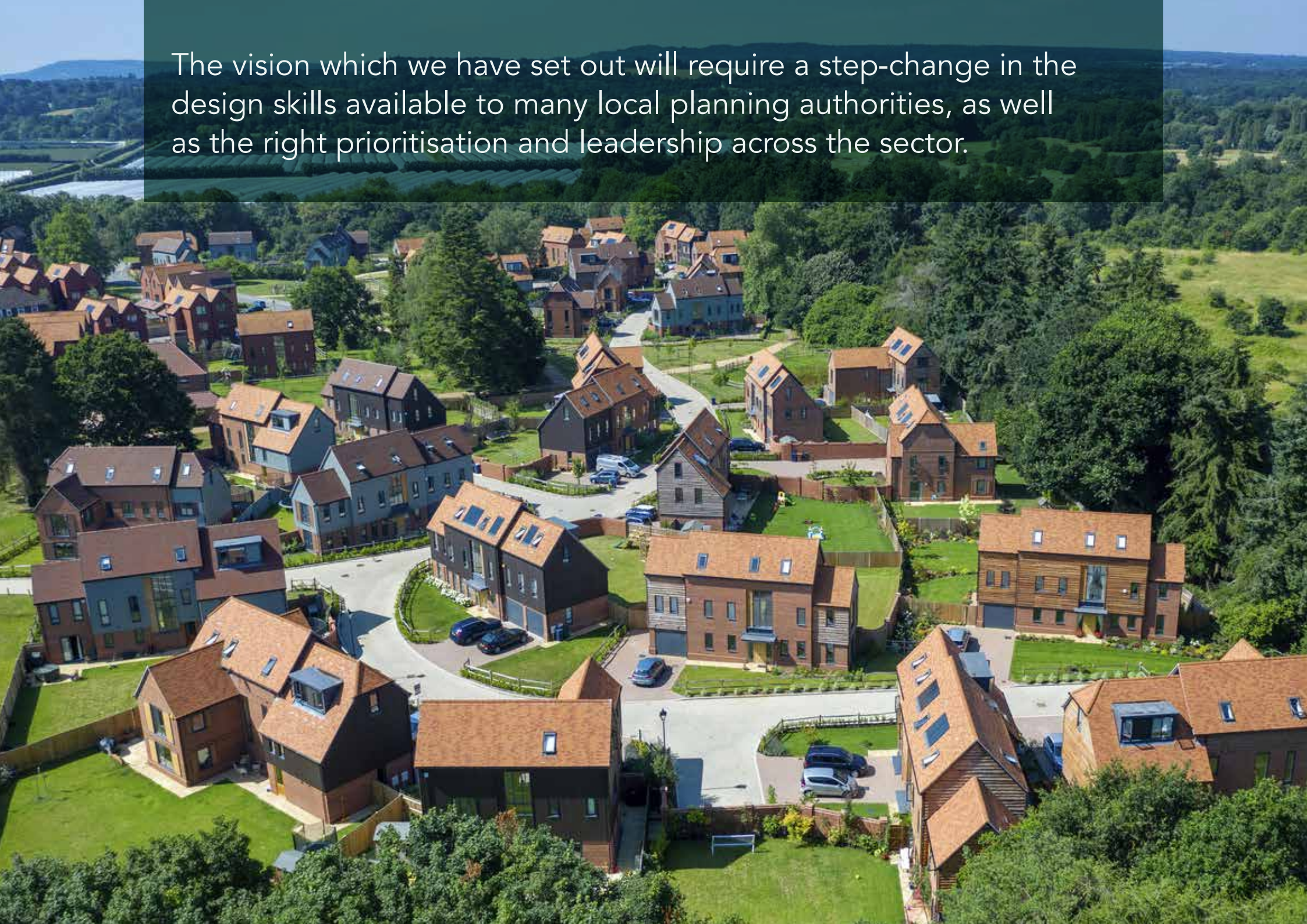
**Question**

**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.]**





The vision which we have set out will require a step-change in the design skills available to many local planning authorities, as well as the right prioritisation and leadership across the sector.





## A FAST-TRACK FOR BEAUTY

One of the important propositions of the Building Better, Building Beautiful Commission is that there should be a 'fast-track for beauty'. Where proposals come forward which comply with pre-established principles of what good design looks like (informed by community preferences), then it should be possible to expedite development through the planning process. This should incentivise attractive and popular development, as well as helping to relieve pressure on planning authorities when assessing proposals.

### **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.**

We propose to do this in three ways. In the first instance, through updating the National Planning Policy Framework, we will make clear that schemes which comply with local design guides and codes have a positive advantage and greater certainty about their prospects of swift approval.

Second, where plans identify areas for significant development (*Growth areas*), we will legislate to require that a masterplan and site-specific code are agreed as a condition of the permission in principle which is granted through the plan. This should be in place prior to detailed proposals coming forward, to direct and expedite those detailed matters.

These masterplans and codes could be prepared by the local planning authority alongside or subsequent to preparing its plan, at a level of detail commensurate with the size of site and key principles to be established. For example, a set of simple 'co-ordinating codes' of the sort endorsed by the Building Better, Building Beautiful Commission could set some initial key parameters for the site layout. Where sites are expected to come forward in the near future, more developed masterplans or codes, prepared by the local planning authority or site promoter, will provide greater certainty.

Third, we also propose to legislate to widen and change the nature of permitted development, so that it enables popular and replicable forms of development to be approved easily and quickly, helping to support 'gentle intensification' of our towns and cities, but in accordance with important design principles. There is a long history – in this country and elsewhere – of 'pattern books' being used to articulate standard building types, options and associated rules (such as heights and set-backs). They have helped to deliver some of our most popular and successful places, and in a way which makes it relatively easy for smaller development companies to enter the market. We want to revive this tradition, in areas suitable for development (*Renewal areas*), by allowing the pre-approval of popular and replicable designs through permitted development. The benefits are much more than fast delivery of proven popular designs – it will foster innovation and support industrialisation of housebuilding, enabling modern methods of construction to be developed and deployed at scale.



One of the central propositions of the Building Better, Building Beautiful Commission is that there should be a 'fast-track for beauty'.







To take this approach forward, we intend to develop a limited set of form-based development types that allow the redevelopment of existing residential buildings where the relevant conditions are satisfied – enabling increased densities while maintaining visual harmony in a range of common development settings (such as semi-detached suburban development). These would benefit from permitted development rights relating to the settings in which they apply. Prior approval from the local planning authority would still be needed for aspects of the design to ensure the development is right for its context (such as materials), as well as for other important planning considerations such as avoidance of flood risk and securing safe access. To enable further tailoring of these patterns to local character and preferences, we also propose that local planning authorities or neighbourhood planning groups would be able to use local orders to modify how the standard types apply in their areas, based on local evidence of what options are most popular with the wider public.

This proposal will require some technical development and testing, so we will develop a pilot programme to test the concept. Where we are taking forward existing schemes to expand the scope of permitted development through upwards extensions and demolition/rebuilding, we also intend to legislate so that prior approval for exercising such rights takes into account design codes which are in place locally (or, in the absence of these, the National Model Design Code).

### Question

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

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







## EFFECTIVE STEWARDSHIP AND ENHANCEMENT OF OUR NATURAL AND HISTORIC ENVIRONMENT

The reformed planning system will continue to protect the places of environmental and cultural value which matter to us. Plans will still play a vital role in identifying not just areas of defined national and international importance (such as National Parks and Sites of Special Scientific Interest), but also those which are valued and defined locally (such as Conservation Areas and Local Wildlife Sites).

However, the planning system can and should do much more than this. In line with the ambitions in our 25 Year Environment Plan, we want the reformed system to play a proactive role in promoting environmental recovery and long-term sustainability. In doing so, it needs to play a strong part in our efforts to mitigate and adapt to climate change and reduce pollution as well as making our towns and cities more liveable through enabling more and better green spaces and tree cover. Several initiatives are already laying the foundations for this. Nationally, the Environment Bill currently before Parliament will legislate for mandatory net gains for biodiversity as a condition of most new development. And the Local Nature Recovery Strategies which it will also introduce will identify opportunities to secure enhancements through development schemes and contributions. We will also deliver our commitment to make all new streets tree-lined, by setting clear expectations through the changes to the National Planning Policy Framework which will be consulted on in the autumn, and informed by the outcome of this summer's consultation on the England Tree Strategy.<sup>14</sup> And we are also assessing the extent to which our planning policies and processes for managing flood risk may need to be strengthened along with developing a national framework of green infrastructure standards.

Once the proposals in this paper for reformed Local Plans begin to be implemented, it will be important for authorities to consider how the identification of different categories of land, and any







sub-areas within them, can most effectively support climate change mitigation and adaptation. For example, in identifying land for inclusion within the *Growth* area, or the densities of development appropriate in different locations, the ability to maximise walking, cycling and public transport opportunities will be an important consideration.

**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.**

These measures, and reform of our policy framework, provide important opportunities to strengthen the way that environmental issues are considered through the planning system. However, we also think there is scope to marry these changes with a simpler, effective approach to assessing environmental impacts.

In doing so, we will want to be clear about the role that local, spatially-specific policies can continue to play, such as in identifying important views, opportunities to improve public access or places where renewable energy or woodland and forestry creation could be accommodated. In reviewing the Framework, we will also want to ensure that it provides a clear and robust basis for development management decisions more generally, so that reliance no longer needs to be placed on generic policies contained in Local Plans.

**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.**

It is vital that environmental considerations are considered properly as part of the planning and development process. However, the current frameworks for doing so – which include Strategic Environmental Assessment, Sustainability Appraisal, and Environmental Impact Assessment – can lead to duplication of effort and overly-long reports which inhibit transparency and add unnecessary delays. Outside of the European Union, it is also important that we take the opportunity to strengthen protections that make the biggest difference to species, habitats and ecosystems of national importance, and that matter the most to local communities.

To succeed, a new system will need to meet several objectives:

- Processes for environmental assessment and mitigation need to be quicker and speed up decision-making and the delivery of development projects. The environmental aspects of a plan or project should be considered early in the process, and to clear timescales. National and local level data, made available to authorities, communities and applicants in digital form, should make it easier to re-use and update information and reduce the need for site-specific surveys.
- Requirements for environmental assessment and mitigation need to be simpler to understand and consolidated in one place so far as possible, so that the same impacts and opportunities do not need to be considered twice.
- Any new system will need to ensure that we take advantage of opportunities for environmental improvements while also meeting our domestic and international obligations for environmental protection. This will be the subject of a separate and more detailed consultation in the autumn.

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

The planning system has played a critical role ensuring the historic buildings and areas we cherish are conserved and, where appropriate, enhanced by development. The additional statutory protections of listed building consent and conservation area status have worked well, and the National Planning Policy Framework already sets out strong protections for heritage assets where planning permission or listed building consent is needed. We want to build on this framework as we develop the new planning system. We envisage that Local Plans will clearly identify the location of internationally, nationally and locally designated heritage assets, such as World Heritage Sites and conservation areas, as well locally important features such as protected views.





We also want to ensure our historic buildings play a central part in the renewal of our cities, towns and villages. Many will need to be adapted to changing uses and to respond to new challenges, such as mitigating and adapting to climate change. We particularly want to see more historical buildings have the right energy efficiency measures to support our zero carbon objectives. Key to this will be ensuring the planning consent framework is sufficiently responsive to sympathetic changes, and timely and informed decisions are made.

We will, therefore, review and update the planning framework for listed buildings and conservation areas, to ensure their significance is conserved while allowing, where appropriate, sympathetic changes to support their continued use and address climate change. In doing so, we want to explore whether there are new and better ways of securing consent for routine works, to enable local planning authorities to concentrate on conserving and enhancing the most important historic buildings. This includes exploring whether suitably experienced architectural specialists can have earned autonomy from routine listed building consents.

**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 planning system is only one of the tools that we need to use to mitigate and adapt to climate change. Last year we consulted on our proposals to move towards a Future Homes Standard, which was a first step towards net zero homes. From 2025, we expect new homes to produce 75-80 per cent lower CO<sub>2</sub> emissions compared to current levels. These homes will be 'zero carbon ready', with the ability to become fully zero carbon homes over time as the electricity grid decarbonises, without the need for further costly retrofitting work.

We welcome the Committee on Climate Change's response to the consultation and we have considered the points they raised. We will respond to the Future Homes Standard consultation in full in the autumn. As part of this, we intend to review the roadmap to the Future Homes Standard to ensure that implementation takes place to the shortest possible timeline. Our ambition is that homes built under our new planning system will not need retrofitting in the future. To work towards ensuring that all new homes are fit for a zero carbon future we will also explore options for the future of energy efficiency standards, beyond 2025.

All levels of Government have a role to play in meeting our net zero goal, and Local Authorities are rising to this challenge. Local Planning Authorities, as well as central Government, should be



accountable for the actions that they are taking, and the consultation response will look to clarify the role that they can play in setting energy efficiency standards for new build developments.

We will also want to ensure that high standards for the design, environmental performance and safety of new and refurbished buildings are monitored and enforced. As local authorities are freed from many planning obligations through our reforms, they will be able to reassign resources and focus more fully on enforcement. Ensuring that planning standards and building regulations are met, whether for new homes or for retrofitting old homes, will help to ensure that we deliver homes that are fit for the future and cheaper to run.

# Pillar Three – Planning for infrastructure and connected places

## Overview

New development brings with it new demand for public services and infrastructure.

Mitigating these impacts – by securing contributions from developers and capturing more land value uplift generated by planning decisions to deliver new infrastructure provision – is key for both new and existing communities. It is also central to our vision for renewal of the planning system.

At present, there are two broad routes for local planning authorities to secure developer contributions, both of which are discretionary for authorities: planning obligations and the Community Infrastructure Levy. Planning obligations – through Section 106 agreements – are negotiated with developers, and in 2018/19 were worth a total of £7bn, of which £4.7bn was in the form of affordable housing contributions – supporting delivery of 30,000 affordable homes. In contrast, the Community Infrastructure Levy is a fixed charge, levied on the area (floorspace) of new development, and secures infrastructure that addresses the cumulative impact of development in an area. The Community Infrastructure Levy is not mandatory for local planning authorities, and around half of authorities currently charge it. Levy rates are discretionary, established by assessments of infrastructure need and viability.

There are several problems with this system. Planning obligations are broadly considered to be uncertain and opaque, as they are subject to negotiation and renegotiation based in part on the developer's assessment of viability. This creates uncertainty for communities about the level of affordable housing and infrastructure that development will bring. In turn, this brings cost, delay and inconsistency into the process. Over 80 per cent of local authorities agree that such negotiations create delay, despite the planning application being acceptable in principle.<sup>15</sup> This acts as a barrier to entry to the market, and major developers are better placed to devote the legal and valuation resource needed to negotiate

successfully. This unevenness is a problem too for local authorities, with significant variation in skill and negotiation in negotiating viability across authorities.

The Community Infrastructure Levy addresses many of these problems as it is a flat-rate and non-negotiable tariff, and developers and local authorities have, in general, welcomed the certainty it brings. However, as payment is set at the point planning permission is granted, and payment due once development commences, it is inflexible in the face of changing market conditions. Payment before a single home has been built increases the developer's risk and cost of finance, creating cashflow challenges which are more acute for smaller developers. And despite early payment, many local authorities have been slow to spend Community Infrastructure Levy revenue on early infrastructure delivery, reflecting factors including indecision, competing spending priorities, and uncertainty over other infrastructure funding streams.

Securing necessary infrastructure and affordable housing alongside new development is central to our vision for the planning system. We want to bring forward reforms to make sure that developer contributions are:

- responsive to local needs, to ensure a fairer contribution from developers for local communities so that the right infrastructure and affordable housing is delivered;
- transparent, so it is clear to existing and new residents what new infrastructure will accompany development;
- consistent and simplified, to remove unnecessary delay and support competition in the housebuilding industry;
- buoyant, so that when prices go up the benefits are shared fairly between developers and the local community, and when prices go down there is no need to re-negotiate agreements.



The Government could also seek to use developer contributions to capture a greater proportion of the land value uplift that occurs through the grant of planning permission, and use this to enhance infrastructure delivery. There are a range of estimates for the amount of land value uplift currently captured, from 25 to 50 per cent.<sup>19</sup> The value captured will depend on a range of factors including the development value, the existing use value of the land, and the relevant tax structure – for instance, whether capital gains tax applies to the land sale. Increasing value capture could be an important source of infrastructure funding but would need to be balanced against risks to development viability.

#### 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]



## Proposals

### A CONSOLIDATED INFRASTRUCTURE LEVY

We propose that the existing parallel regimes for securing developer contributions are replaced with a new, consolidated 'Infrastructure Levy'.

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

We believe that the current system of planning obligations under Section 106 should be consolidated under a reformed, extended 'Infrastructure Levy'.

This would be based upon a flat-rate, valued-based charge, set nationally, at either a single rate, or at area-specific rates. This would address issues in the current system as it would:

- be charged on the final value of a development (or to an assessment of the sales value where the development is not sold, e.g. for homes built for the rental market), based on the applicable rate at the point planning permission is granted;
- be levied at point of occupation, with prevention of occupation being a potential sanction for non-payment;
- include a value-based minimum threshold below which the levy is not charged, to prevent low viability development becoming unviable, reflecting average build costs per square metre, with a small, fixed allowance for land costs. Where the value of development is below the threshold, no Levy would be charged. Where the value of development is

above the threshold, the Levy would only be charged on the proportion of the value that exceeded the threshold ; and

- provide greater certainty for communities and developers about what the level of developer contributions are expected alongside new development.

The single rate, or area-specific rates, would be set nationally. It would aim to increase revenue levels nationally when compared to the current system. Revenues would continue to be collected and spent locally.

As a value-based charge across all use classes, we believe it would be both more effective at capturing increases in value and would be more sensitive to economic downturns. It would reduce risk for developers, and would reduce cashflow difficulties, particularly for SME developers.

In areas where land value uplift is insufficient to support significant levels of land value capture, some or all of the value generated by the development would be below the threshold, and so not subject to the levy. In higher value areas, a much greater proportion of the development value would be above the exempt amount, and subject to the levy.

To better support the timely delivery of infrastructure, we would also allow local authorities to borrow against Infrastructure Levy revenues so that they could forward fund infrastructure. Enabling borrowing combined with a shift to levying developer contributions on completion, would incentivise local authorities to deliver enabling infrastructure, in turn helping to ensure development can be completed faster. As with all volatile borrowing streams, local authorities should assure themselves that this borrowing is affordable and suitable.

Under this approach the London Mayoral Community Infrastructure Levy, and similar strategic Community Infrastructure Levies in combined authorities, could be retained as part of the Infrastructure Levy to support the funding of strategic infrastructure.

To better support the timely delivery of infrastructure, we would also allow local authorities to borrow against Infrastructure Levy revenues so that they could forward fund infrastructure.

In bringing forward the reformed Infrastructure Levy, we will need to consider its scope. We will also consider the impact of this change on areas with lower land values.

Alternative option: The Infrastructure Levy could remain optional and would be set by individual local authorities. However, as planning obligations would be consolidated into the single Infrastructure Levy, we anticipate that there would be a significantly greater uptake. The aim of the *de minimis* threshold would be to remove the viability risk, simplifying the rate setting process, as this would remove the need for multiple charging zones within an authority. It would be possible to simplify further – for instance, for the Government to set parameters. There would be a stronger incentive for local authorities to introduce the new Levy, as they would not be able to use Section 106 planning obligations to secure infrastructure or affordable housing. In addition, some local authorities have chosen not to introduce the Community Infrastructure Levy out of concern for the impact on viability of development. Because the new Infrastructure Levy would only be charged above a set threshold, these impacts would be mitigated.

This option would address issues around transparency, responsiveness to local needs and consistency. However, the Government's levers over levels of land value capture would be less strong, with decisions about levy rates being taken at the local level.

Alternatively, the national rate approach could be taken, but with the aim of capturing more land value than currently, to better support the delivery of infrastructure. While developers would be liable for paying the levy, the cost of this would be capitalised into land value. This would ensure that the landowners who benefit from increases in value as a result of the grant of planning permission contribute to the infrastructure and affordable housing that makes development acceptable.

### 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.]





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

In making this change to developer contributions for new development, the scope of the Infrastructure Levy would be extended to better capture changes of use which require planning permission, even where there is no additional floorspace, and for some permitted development rights including office to residential conversions and new demolition and rebuild permitted development rights. This approach would increase the levy base, and would allow these developments to better contribute to infrastructure delivery and making development acceptable to the community. However, we will maintain the exemption of self and custom-build development from the Infrastructure Levy.

#### 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.]

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

Developer contributions currently deliver around half of all affordable housing, most of which is delivered on-site. It is important that the reformed approach will continue to deliver on-site affordable housing at least at present levels.

Affordable housing provision is currently secured by local authorities via Section 106, but the Community Infrastructure Levy cannot be spent on it. With Section 106 planning obligations removed, we propose that under the Infrastructure Levy, authorities would be able to use funds raised through the levy to secure affordable housing.

This could be secured through in-kind delivery on-site, which could be made mandatory where an authority has a requirement, capability and wishes to do so. Local authorities would have a means to specify the forms and tenures of the on-site provision, working with a nominated affordable housing provider. Under this approach, a provider of affordable housing could purchase the dwelling at a discount from market rate, as now. However, rather than the discount being secured through Section 106 planning obligations, it would instead be considered as in-kind delivery of the Infrastructure Levy. In effect, the difference between the price at which the unit was sold to the provider and the market price would be offset from the final cash liability to the Levy. This would create an incentive for the developer to build on-site affordable housing where appropriate.<sup>16</sup> First Homes, which are sold by the developer direct to the customer at a discount to market price, would offset the discount against the cash liability.





Under this approach we recognise that some risk is transferring to the local planning authority, and that we would need to mitigate that risk in order to maintain existing levels of on-site affordable housing delivery. We believe that this risk can be fully addressed through policy design. In particular, in the event of a market fall, we could allow local planning authorities to 'flip' a proportion of units back to market units which the developer can sell, if Levy liabilities are insufficient to cover the value secured through in-kind contributions. Alternatively, we could require that if the value secured through in-kind units is greater than the final levy liability, then the developer has no right to reclaim overpayments. Government could provide standardised agreements, to codify how risk sharing would work in this way.

We would also need to ensure the developer was incentivised to deliver high build and design quality for their in-kind affordable homes. Currently, if Section 106 homes are not of sufficient quality, developers may be unable to sell it to a provider, or have to reduce the price. To ensure developers are not rewarded for low-standard homes under the Levy, local authorities could have an option to revert back to cash contributions if no provider was willing to buy the homes due to their poor quality. It is important that any approach taken maintains the quality of affordable housing provision as well as overarching volumes, and incentivises early engagement between providers of affordable housing and developers. Local authorities could also accept Infrastructure Levy payments in the form of land within or adjacent to a site. Through borrowing against further Infrastructure Levy receipts, other sources of funding, or in partnership with affordable housing providers, they could then build affordable homes, enabling delivery at pace.

Alternative option: We could seek to introduce further requirements around the delivery of affordable housing. To do this we would create a 'first refusal' right for local authorities or any affordable housing provider acting on their behalf to buy up to a set proportion of on-site units (on a square metre basis) at a discounted price, broadly equivalent to build costs. The

proportion would be set nationally, and the developer would have discretion over which units were sold in this way. A threshold would be set for smaller sites, below which on-site delivery was not required, and cash payment could be made in lieu. Where on-site units were purchased, these could be used for affordable housing, or sold on (or back to the developer) to raise money to purchase affordable housing elsewhere. The local authority could use Infrastructure Levy funds, or other funds, in order to purchase units.

### 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.]

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

It is important that there is a strong link between where development occurs and where funding is spent. Currently, the Neighbourhood Share of the Community Infrastructure Levy ensures that up to 25 per cent of the levy is spent on priorities in the area that development occurred, with funding transferred to parish councils in parished areas. There are fewer restrictions on how this funding is spent, and we believe it provides an important incentive to local communities to allow development in their area. We therefore propose that under this approach the Neighbourhood Share would be kept, and we would be interested in ways to enhance community engagement around how these funds are used, with scope for digital innovation to promote engagement.

There is scope for even more flexibility around spending. We could also increase local authority flexibility, allowing them to spend receipts on their policy priorities, once core infrastructure obligations have been met. In addition to the provision of local infrastructure, including parks, open spaces, street trees and delivery or enhancement of community facilities, this could include improving services or reducing council tax. The balance of affordable housing and infrastructure may vary depending on a local authority's circumstances, but under this approach it may be necessary to consider ring-fencing a certain amount of Levy funding for affordable housing to ensure that affordable housing continues to be delivered on-site at current levels (or higher). There would also be opportunities to enhance digital engagement with communities as part of decision making around spending priorities. Alternatively, the permitted uses of the Levy could remain focused on infrastructure and affordable housing, as they are broadly are at present. Local authorities would continue to identify the right balance between these to meet local needs, as they do at present.

### Questions

**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.]

It is important that there is a strong link between where development occurs and where funding is spent.

# Delivering change

## How we move into the new system

It is important that in bringing forward reform to improve the operation of the planning system, we do not cause delays to development that is currently planned.

Subject to responses to this consultation, we will consider the arrangements for implementing these changes to minimise disruption to existing plans and development proposals and ensure a smooth transition. This includes making sure that recently approved plans, existing permissions and any associated planning obligations can continue to be implemented as intended; and that there are clear transitional arrangements for bringing forward new plans and development proposals as the new system begins to be implemented.

Nevertheless, we do want to make rapid progress toward this new planning system. We are already introducing a new Use Class Order, with associated permitted development rights, to make easier for businesses to change use without the need for planning permission to support our high streets and town centres bounce back following the COVID-19 pandemic. We have also created new permitted development rights to enable more new homes to be built on top of buildings and the demolition and rebuild of vacant buildings for housing, without the need for usual planning permission.

Today, we are also publishing a consultation on four shorter-term measures which will improve the immediate effectiveness of the current system:

- changes to the standard method for assessing local housing need, which as well as being a proposal to change guidance in the short term has relevance to proposals for land supply reforms set out in this paper;

- securing of First Homes, sold at a discount to market price for first time buyers, including key workers, through developer contributions in the short term until the transition to a new system;
- temporarily lifting the small sites threshold, below which developers do not need to contribute to affordable housing, to up to 40 or 50 units;
- extending the current Permission in Principle to major development so landowners and developers now have a fast route to secure the principle of development for housing on sites without having to work up detailed plans first;

This consultation document can be found at:

[www.gov.uk/government/consultations/changes-to-the-current-planning-system](http://www.gov.uk/government/consultations/changes-to-the-current-planning-system) .

To provide better information to local communities, to promote competition amongst developers, and to assist SMEs and new entrants to the sector, we will consult on options for improving the data held on contractual arrangements used to control land. This can be found at: [www.gov.uk/government/consultations/transparency-and-competition-a-call-for-evidence-on-data-on-land-control](http://www.gov.uk/government/consultations/transparency-and-competition-a-call-for-evidence-on-data-on-land-control) .

## Public assets and investment

As we fix our planning system, we also want to make better use of surplus land owned by the public sector, and to level up public investment in development to support renewal of towns and cities across the country, giving power to communities to shape its future use and bringing investment to places across the country. We will do this by:

- Ensuring investment in new public buildings supports renewal and regeneration of town and city centres across the country. The Government Estate Strategy (GES), which was



published in 2018, sets out how we will use the estate as an enabler to deliver better outcomes for the public, across all four nations of the UK. As part of this, the Government Hubs programme aims to transform the Government's office estate by accommodating departmental workforces in shared regional hubs and supporting office estate – creating strategic hubs across the UK in major city centre conurbations and in secondary towns and cities. We will continue to look at how the Government can ensure investment in its estate delivers wider benefits for places across the country.

- Exploring how disposal of publicly-owned land can support the SME and self-build sectors. As announced by the Prime Minister last month in 'A New Deal for Britain', the Government will produce a new cross-government strategy on how land owned by the Government can be managed and released more effectively and put to better use. As part of this review, we will explore how we can support SME housebuilders, community land trusts and self-builders to identify public land opportunities.

## Supporting innovation in delivery

As we bring forward planning reform, we also want to ensure we have in place the right delivery mechanisms, including development corporations. A good example that we are already progressing is development at Toton in the East Midlands, where we have announced our intention to support the establishment of a development corporation to maximise the area's international links and create tens of thousands of new homes and jobs. We want to see more schemes of this kind, backed by modern delivery models, around the country.

That is why we consulted at the end of last year on changes to the legislative framework for development corporations. This includes exploring whether we need to make changes to

enable more flexible development corporation models that can drive housing, regeneration and employment. We are currently considering responses to the consultation and will respond to it shortly.



## Making sure the system has the right people and skills

Local planning authorities remain at the heart of our ambitious reforms. We want to free up planners to focus on what they were trained for – creating great communities through world-class civic engagement and proactive plan-making, rather than reactive development management.

We recognise that local planning departments need to have the right people with the right skills, as well as the necessary resources, to implement these reforms successfully. Many local authorities are delivering great services, and through the COVID-19 pandemic have been able to transform the way they work to a more digital and modern service. We look forward to seeing evaluations and lessons learned so that we can use this as a catalyst for modernisation of our planning services.

But we know that local authority planning departments are under great pressure – with spending per person on planning and development down 60 per cent and shortages of specialist skills such as design and ecology.<sup>17</sup> And the technology in local planning authorities to support modern services is not there – whilst PropTech firms are developing new apps and other digital services that enable communities to engage with development in new ways, in few places can this be captured by the local authority. Instead, documents are submitted electronically, but not in the way of modern digital services such as those now supporting tax services.

The preparation of reformed Local Plans, development of new design codes, a major overhaul of development contributions, and a new streamlined approach to decision-making will have profound implications for how local planning authorities operate in future. They will need to have sufficient leadership, a strong cadre of professional planners and good access to technical expertise, as well as transformed systems which utilise the latest digital technology. But equally importantly, there must be a fundamental cultural change on how planning

departments operate. They need to be more outward looking, proactively engaging with developers, businesses, architects and designers, as well as a wider cross-section of their local communities.

In particular, we envisage the focus of local planning authorities shifting towards the development of clear Local Plans and high-quality design codes which set the parameters for development – rather than making discretionary decisions based on vague policies. In doing so, there is a real opportunity for planners to redesign their individual roles and change perceptions of their profession. We will consider how best to support the planning profession in making this adjustment, in a way which supports culture change, improves recruitment and changes perceptions of planning.

In addition, other key players, including the Planning Inspectorate and statutory consultees, will have to transform the way they operate in response to these reforms, given their critical role supporting the preparation of Local Plans and decision-making. They too will need to be more responsive and outward looking, and have the necessary skills and resources to undertake their new roles.

We understand why many participants – not just local authorities, but statutory consultees and the Planning Inspectorate – are risk averse. Judicial review is expensive, and to lose a judicial review in the courts is bad for the reputation of either. And judicial reviews can be precedent setting, establishing a new interpretation of the law. We think the proposals set out in the document should remove the risk of judicial review substantially. Most judicial reviews are about imprecise and unclear worded policies or law. Our plans for an overhaul of planning law to create simple and clear processes and for plans that set out clear requirements and standards will substantially remove the scope for ambiguity and therefore challenge.

The cost of operating the new planning system should be principally funded by the beneficiaries of planning gain – landowners and developers – rather than the national or local taxpayer.

**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 – rather than the national or local taxpayer. Currently, the cost of development management activities by local planning authorities is to a large extent covered by planning fees, although the current fee structure means the cost of processing some applications can be significantly greater than their individual fee. However, the cost of preparing Local Plans and enforcement activities is now largely funded from the local planning authority's own resources.

Planning fees should continue to be set on a national basis and cover at least the full cost of processing the application type based on clear national benchmarking. This should involve the greater regulation of discretionary pre-application charging to ensure it is fair and proportionate.

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.

Reform should be accompanied by a deep dive regulatory review to identify and eliminate outdated regulations which increase costs for local planning authorities, especially to the decision-making process.

Some local planning activities should still be funded through general taxation given the public benefits from good planning, and time limited funding will be made available by the Government in line with the new burdens principle to support local planning authorities to transition to the new planning system as part of the next Spending Review.

Local planning authorities should be subject to a new performance framework which ensures continuous improvement across all planning functions from Local Plans to decision-making and enforcement – and enables early intervention if problems emerge with individual authorities.

The Planning Inspectorate and statutory consultees should become more self-financing through new charging mechanisms and be subject to new performance targets to improve their performance.

Workforce planning and skills development, including training, should be principally for the local government sector to lead on, working closely with Government, statutory consultees, planning consultancies and universities.

Reform should be accompanied by a significant enhancement in digital and geospatial capability and capacity across the planning sector to support high-quality new digital Local Plans and digitally enabled decision-making. We think the English planning profession has the potential to become an international world-leader in digital planning, capable of exporting world class planning services around the world.

In developing this strategy, we recognise different local planning authorities face different pressures and issues, and it will be important to develop a resourcing and skills framework which works for all authorities across the country. We will work with local planning authorities, professional bodies and the wider planning sector to ensure views about implementation are considered. We would particularly want to see innovative solutions which can transform practice

At the same time, we also want to enable a thriving PropTech sector. By unlocking the data that underpins the planning system so that it is open, we want to enable the PropTech sector to transform housing, land, and planning industries with innovative products that are interoperable with others. This will make use of process improvement insights and data to offer services for many different clients, including for improved public consultation opportunities for citizens and developers to identify sites on which to build, helping to reduce investment risks. We will continue to engage with the innovators and the UK PropTech sector through a Minister-led PropTech Innovation Council (announced in November 2019) to make the most of innovative new approaches to meet public policy objectives, help this emerging sector to boost productivity in the wider planning and housing sectors, and ensure government data and decisions support the sector's growth in the UK and internationally.

### Stronger enforcement

As part of the implementation of our planning reforms, we want to see local planning authorities place more emphasis on the enforcement of planning standards and decisions. Planning enforcement activity is too often seen as the 'Cinderella' function of local planning services. But local communities want new development to meet required design and environmental standards, and robust enforcement action to be taken if planning rules are broken. As local



planning authorities are freed from many planning requirements through our reforms, they will be able to focus more on enforcement across the planning system.

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

We will 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.

This will include implementing our commitments from the Government's response to the consultation on unauthorised development and encampments, to strengthen national planning policy against intentional unauthorised development and ensure temporary stop notices are more effective. And will also consider what more can be done in cases where the Environment Agency's flood risk advice on planning applications is not followed.



We will seek to strengthen enforcement powers and sanctions





# What happens next

## Implementing reform

The proposals in this paper apply to England only. Planning is devolved in Scotland, Wales and Northern Ireland.

Subject to the outcome of this consultation, we will seek to bring forward legislation and policy changes to implement our reforms. This consultation sets out our vision for the basis of a reformed planning system. We have not comprehensively covered every aspect of the system, and the detail of the proposals will need further development pending the outcome of this consultation. We will continue to develop the proposals as we gather feedback and views on them.

Our proposals for Local Plan reform, changes to developer contributions and development management would require primary legislation followed by secondary legislation. The proposals allow 30 months for new Local Plans to be in place so a new planning framework, so we would expect new Local Plans to be in place by the end of the Parliament.

We would implement any policy changes, including to set a new housing requirement, by updating the National Planning Policy Framework in line with the new legislation.

## Responding to this consultation

### EQUALITIES IMPACTS

We want all communities, families, groups and individuals to have a say in the future of the places where they live. For too long, planning and planning decisions have felt out of reach from too many people. The Government has heard how the combination of technical jargon

and traditional models of community engagement discourages people from having their say on decisions. At the same time, it disproportionately encourages engagement from people from a narrow set of demographic groups – typically older, better off and white. We believe that the voices of those who may benefit most from new development are therefore often the quietest in the planning process.

We are committed to delivering wider engagement in planning, increasing the supply of land for development, and supporting inclusive and mixed communities. Some authorities and developers are pioneering new models of engagement that broaden this to different groups. We hope that the reforms set out in this consultation – to make the system more accessible, accountable, digital and transparent – will increase access and engagement for all groups up and down the country.

We would welcome views on the potential impact on the proposals raised in this consultation on people with protected characteristics and whether further reforms could broaden access to planning for people in diverse groups.

### 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?**



# About this consultation

This consultation document and consultation process have been planned to adhere to the Consultation Principles issued by the Cabinet Office.

Representative groups are asked to give a summary of the people and organisations they represent, and where relevant who else they have consulted in reaching their conclusions when they respond.

Information provided in response to this consultation, including personal data, may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 2018 (DPA), the General Data Protection Regulation, and the Environmental Information Regulations 2004).

If you want the information that you provide to be treated as confidential, please be aware that, as a public authority, the Department is bound by the Freedom of Information Act and may therefore be obliged to disclose all or some of the information you provide. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

The Ministry of Housing, Communities and Local Government will process your personal data in accordance with the law and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties. A full privacy notice is included at Annex A.

Individual responses will not be acknowledged unless specifically requested.

Your opinions are valuable to us. Thank you for taking the time to read this document and respond.

Are you satisfied that this consultation has followed the Consultation Principles? If not or you have any other observations about how we can improve the process please contact us via the [complaints procedure](#).





# Annex A

The following is to explain your rights and give you the information you are be entitled to under the data protection legislation.

These rights apply to your personal data (your name address and anything that could be used to identify you personally) not the content of your response to the consultation.

## **1. The identity of the data controller and contact details of our Data Protection Officer**

The Ministry of Housing, Communities and Local Government (MHCLG) is the data controller. The Data Protection Officer can be contacted at [dataprotection@communities.gsi.gov.uk](mailto:dataprotection@communities.gsi.gov.uk)

## **2. Why we are collecting your personal data**

Your personal data is being collected as an essential part of the consultation process, so that we can contact you regarding your response and for statistical purposes. We may also use it to contact you about related matters.

## **3. Our legal basis for processing your personal data**

Article 6(1)(e) of the General Data Protection Regulation 2016 (GDPR) provides that processing shall be lawful if processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller. Section 8(d) of the Data Protection Act 2018 further provides that this shall include processing of personal data that is necessary for the exercise of a function of the Crown, a Minister of the Crown or a government department.

The processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the Ministry of Housing, Communities and Local Government. The task is consulting on departmental policies or proposals or obtaining opinion data in order to develop good effective government policies in relation to' planning.

## **4. With whom we will be sharing your personal data**

We will not share your personal data with organisations outside of MHCLG without contacting you for your permission first.

## **5. For how long we will keep your personal data, or criteria used to determine the retention period.**

Your personal data will be held for two years from the closure of the consultation.

## **6. Your rights, e.g. access, rectification, erasure**

The data we are collecting is your personal data, and you have considerable say over what happens to it. You have the right:

- a. to see what data we have about you
- b. to ask us to stop using your data, but keep it on record
- c. to ask to have all or some of your data deleted or corrected
- d. to lodge a complaint with the independent Information Commissioner (ICO) if you think we are not handling your data fairly or in accordance with the law. You can contact the ICO at <https://ico.org.uk/>, or telephone 0303 123 1113.

## **7. Storage of your personal data**

The Data you provide directly will be stored by MHCLG's appointed third-party on their servers. We have taken all necessary precautions to ensure that your rights in terms of data protection will not be compromised by this.

If you submit information to this consultation using our third-party survey provider, it will be moved to our secure government IT systems at a date following the consultation publication date.

## **8. Your personal data will not be used for any automated decision making.**





# Footnotes

- 1 The shortage of affordable homes in and close to the most productive urban centres is a major drag on national productivity – see PwC (2019) “UK Housing market outlook”, available at <https://www.pwc.co.uk/economic-services/ukeo/ukeo-housing-market-july-2019.pdf>.
- 2 The EU Compendium of Spatial Planning Systems and Policies, European Commission (1997); OECD (2017), Land-use Planning Systems in the OECD: Country Fact Sheets; Monk, S., Whitehead, C., Burgess, G. & Tang, C. (2013) International review of land supply and planning systems, Joseph Rowntree Foundation.
- 3 MHCLG data, period covering 24 months to end March 2019.
- 4 YouGov polling commissioned by Grosvenor (2019) – available at <https://www.grosvenor.com/Grosvenor/files/a2/a222517e-e270-4a5c-ab9f-7a7b4d99b1f3.pdf>. An overview of wider evidence and studies on public attitudes to planning and development is available in chapter 9 of the Building Better Building Beautiful Commission’s interim report – available at [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/815495/BBBBB\\_Commission\\_Interim\\_Report\\_Appendices.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/815495/BBBBB_Commission_Interim_Report_Appendices.pdf).
- 5 See the LGAs open statement on planning at <https://www.local.gov.uk/keep-planning-local>.
- 6 MHCLG (2019) The Value and Incidence of Developer Contributions in England 2018/19 available at: <https://gov.uk/government/publications/section-106-planning-obligations-and-the-community-infrastructure-levy-in-england-2018-to-2019-report-of-study>.
- 7 MHCLG data on housing supply available at <https://www.gov.uk/government/statistics/housing-supply-net-additional-dwellings-england-2018-to-2019>.
- 8 Data from the Deloitte Property Index, available at [https://www2.deloitte.com/content/dam/Deloitte/cz/Documents/survey/Property\\_Index\\_2016\\_EN.pdf](https://www2.deloitte.com/content/dam/Deloitte/cz/Documents/survey/Property_Index_2016_EN.pdf)
- 9 Building Better Building Beautiful Commission (2019) Creating space for beauty: Interim report. Available at: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/815493/BBBBB\\_Commission\\_Interim\\_Report.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/815493/BBBBB_Commission_Interim_Report.pdf)
- 10 See [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/875032/Planning\\_Application\\_Statistics\\_October\\_to\\_December\\_2019.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/875032/Planning_Application_Statistics_October_to_December_2019.pdf) (p.3).
- 11 See Policy Exchange (2020) “A planning system for the 20th century”, available at: <https://policyexchange.org.uk/publication/rethinking-the-planning-system-for-the-21st-century/>; Centre for Cities (2020) “Planning for the future”, available at: <https://www.centreforcities.org/publication/planning-for-the-future/>; Building Better Building Beautiful Commission (2020) “Living with beauty: promoting health, well-being and sustainable growth”, available at: <https://www.gov.uk/government/publications/living-with-beauty-report-of-the-building-better-building-beautiful-commission>; Create Streets (2018) “From NIMBY to YIMBY”, and (2018) “More Good Homes”.
- 12 RTPI (2020) “Plan the world we need: The contribution of planning to a sustainable, resilient and inclusive recovery”, available at: <https://www.rtpi.org.uk/research/2020/june/plan-the-world-we-need/>.
- 13 Our plan for cycling and walking is available at <https://www.gov.uk/government/publications/cycling-and-walking-plan-for-england>.
- 14 To give your views on the England Tree Strategy, please visit <https://consult.defra.gov.uk/forestry/england-tree-strategy/>.
- 15 MHCLG (2019) The Value and Incidence of Developer Contributions in England 2018/19
- 16 As above, a Section 106 planning obligation could still be used to secure a covenant on the land, where necessary. However, the value would be captured through the Infrastructure Levy, rather than Section 106.
- 17 Institute for Fiscal Studies (2019) “English local government funding: trends and challenges in 2019 and beyond”, <https://www.ifs.org.uk/uploads/English-local-government-funding-trends-and-challenges-in-2019-and-beyond-IFS-Report-166.pdf>
- 18 For more information see <https://www.commonplace.is/>
- 19 Estimates provided to the Housing, Communities and Local Government Select Committee Inquiry into Land Value Capture: <https://publications.parliament.uk/pa/cm201719/cmselect/cmcomloc/766/766.pdf>







# Image Credits

Page	Image	Credit
Front cover	Tregunnel Hill	ADAM Architecture
3	Timekeepers Square	Buttress Architects, English Cities Fund, HDA Winner
11	Rochester Riverside, Chatham	BPTW for Countryside, HDA winner
14	Peverell Avenue in Poundbury	Andrew Cameron & Associates
17	Timekeepers Square	Buttress Architects, English Cities Fund, HDA Winner
18	South Gardens, Elephant and Castle	Maccleanor Lavington for Lend Lease, HDA winner
19	East Float, Wirral Waters	House by Urban Splash & Peel L&P
23	Community engagement, St Cuthbert's Garden Village	Stuart Walker Photography
24	Wapping Wharf Phase I, Bristol	Alec French Architects
25		Robert Kwolek
27	Wapping Wharf Phase I, Bristol	Alec French Architects
28	Fountains Close	Richmond Housing Partnership
31	Cecil Square	ADAM Architecture
38	Community engagement	HTA Design
39	Community engagement	HTA Design
40	Community engagement	HTA Design
42	Community engagement	HTA Design
43	Inholm site plan, Inholm, Northstowe, Cambs	Proctor and Matthews, Homes England, HDA winner
44	Roussillon Park, Chichester	Designed Ben Pentreath Ltd
46	AVRO Manchester	Urban Splash
47	Cane Hill	HTA Design
48	Park Hill, Sheffield	Urban Splash & Places for People
49	Tregunnel Hill	ADAM Architects
50	Great Kneighton	Countryside Properties

Page	Image	Credit
51	Milford	HTA Design
53	Roussillon Park, Chichester	Designed Ben Pentreath Ltd
61	South Gardens, Elephant and Castle	Maccleanor Lavington for Lend Lease, HDA winner
65	Foreman Manor	Aspen Homes
69	Listers Pods, Lister Mills, Bradford	Urban Splash
72	Community engagement, St Cuthbert's Garden Village	Stuart Walker Photography
73	Nansledan	ADAM Architecture
75		Robert Kwolek
77	Piece Hall	Piece Hall
81		PRP Architects
Rear cover	Campbell Park, Milton Keynes	Urban Splash & Places for People







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# PLANNING FOR THE FUTURE

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## Modernising the planning system to get Britain Building

The current planning system is complicated, favours larger developers and often means that much needed new homes are delayed.

We're proposing a new system which is easier for the public to access, transforms the way communities are shaped and builds the homes this country needs.

The changes will mean more good quality, attractive and affordable homes can be built faster – and more young families can have the key to their own home.

In the new system local areas will develop plans for land to be designated into three categories:

- **Growth areas** will back development, with development approved at the same time plans are prepared, meaning new homes, schools, shops and business space can be built quickly and efficiently, as long as local design standards are met.
- **Renewal areas** will be suitable for some development - where it is high-quality in a way which meets design and other prior approval requirements the process will be quicker. If not, development will need planning approval in the usual way.
- **Protected areas** will be just that – development will be restricted to carry on protecting our treasured heritage like Areas of Outstanding Natural Beauty and National Parks.

Communities will be consulted from the beginning of the planning process – and help shape the design codes to guide what development can happen in their local area.

The reforms will mean:

- Much-needed homes will be built quicker by ensuring local housing plans are developed and agreed in 30 months – down from the current 7 years it often takes.
- Every area to have a local plan in place - currently only 50% of local areas has an up-to-date plan to build more homes.
- The planning system will be made more accessible, by harnessing the latest technology through online maps and data.
- Valued green spaces will be protected for future generations by allowing for more building on brownfield land and all new streets to be tree lined.
- The planning process to be overhauled and replaced with a clearer, rules based system. Currently around a third of planning cases that go to appeal are overturned.
- A new simpler national levy to replace the current system of developer contributions which often causes delay – this will provide more certainty about the number of affordable homes being built.
- The creation of a fast-track system for beautiful buildings and establishing local design guidance for developers to build and preserve beautiful communities.
- All new homes to be 'zero carbon ready', with no new homes delivered under the new system needed to be retrofitted as we achieve our commitment to net zero carbon emissions by 2050.

We're currently consulting on these proposals and you can have your say online: [gov.uk/planning-for-the-future-consultation](https://www.gov.uk/planning-for-the-future-consultation)