

<https://www.gov.uk/government/consultations/planning-for-the-future/planning-for-the-future>

Questions and Proposed Responses -

Questions

Q1: What three words do you associate most with the planning system in England?

Q2: Do you get involved with planning decisions in your local area?

[Yes / No]

Yes

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]

Q3: 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]

Q4: 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]

Building homes for the homeless

The environment, biodiversity and action on climate change

The design of new homes and places

Pillar 1 - Planning for Development - grouped for understanding the issues in the round with focus on centralising DM policies, the 3 “zones and auto PiP and housing numbers + build-out.

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

Q5. Do you agree that Local Plans should be simplified in line with our proposals?

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

No.

A plan making system should be fundamentally concerned with the delivery of sustainable places that meet the needs of both existing and future local residents and communities.

London Borough Of Hackney
Planning White Paper Combined Draft Response
21 October 2020

Plan-making and decision-taking should be informed by a proportionate but meaningful evidence base. The processes must be democratic, transparent and allow for meaningful engagement that genuinely informs strategy and policy. At the same time these processes should not be weighed down by unnecessary bureaucracy. These processes should seek to secure outcomes as quickly as possible but not at the cost of sound plan-making. Our national planning system should be about securing good quality place-making that endures for future generations.

In July 2020, Hackney adopted a new local plan with a growth strategy that seeks to meet and exceed housing targets. We managed to meet this challenge quickly - assembling an evidence base; conducting meaningful public consultation and engagement; undertaking an examination in public; and moving towards adoption within three years. We consider that this demonstrates a strong commitment to meeting the needs of local residents and communities. Our new Local Plan sets out our positive and proactive position towards significantly boosting housing supply - as the local planning authority; and as a housing developer and landowner. Our new Local Plan is genuinely embedded as a key corporate policy document that functions across Hackney Council. We consider it an important tool for delivering regeneration, renewal and new genuinely affordable housing for the Borough.

Hackney Council believes that the proposed solutions are over-simplistic and will result in the removal of local control and accountability for both plan-making and decision-taking. As such future plans that come forward under the current proposals will fall short of what we have achieved. There will undeniably be fewer opportunities for local residents and communities to engage in plan-making. There will be less transparency in plan-making - particularly in respect of future planning policies (which will be dictated centrally by the Government). As a consequence, local residents and communities will not take ownership of future plans and are therefore unlikely to embrace change and growth. The intention of streamlining existing processes is seductive but the proposals are so vague there is a suspicion that future design codes will out of necessity be just as complex and laborious as the worst excesses of the current system. Critically the proposals will fail to meet the needs of local residents and communities - this being most telling in regards to the delivery of new genuinely affordable new homes. Whilst well-intentioned, the claimed emphasis upon design quality runs the risk of creating bland pattern-book places that discard local character and distinctiveness.

Hackney Council strongly disagrees with key aspects of this proposal as it considers this to be a harmful and fundamental shift for our nation's planning system. It appears that the intention is to remove the discretionary element in planning decisions, where proposals are assessed in relation to local plan policies and a balanced judgement is arrived at based on the priorities which best fit the site. This existing approach provides the decision-taking process with flexibility and permits the system to adapt to market and social changes. The proposed widespread replacement of this approach, particularly in relation to the proposed Growth and Renewal areas, with reliance placed on zoning, permitted development and design codes, in a pursuit of certainty and speed, will have undesirable consequences.

Hackney Council considers that the existing flexible and adaptive approach that allows planning authorities to balance conflicting considerations will be replaced by mechanistic and binary approaches. The Government's proposals are likely to result in protracted legal challenges on the nature and wording of proposed zones and codes, rather than generating a real discussion of planning merits. This has been the experience in North America and the Southern Hemisphere - where zonal planning has been evolving over the last fifty years. As the Government's proposals herald a comprehensive change - it is highly unlikely that they

London Borough Of Hackney
Planning White Paper Combined Draft Response
21 October 2020

will yield the rapid significant boost in housing supply desired but will instead require time to evolve. On that basis the utility of such extensive change is considered highly questionable.

Zonal Planning and Codes/ Rulesets

Hackney Council also questions the relationship between the new zones/ areas and the possible design codes or rulesets that the Government believes will secure local distinctiveness in future growth. Once in place there would be no discretion or room for general interpretation of policy principles. As a consequence we believe that Design Codes could become overly long and detailed. This has been the experience in North America and the Southern Hemisphere. In those locations, lower populations and wide-open spaces have allowed zonal planning systems the necessary time to evolve. It is difficult to see how the Government's proposals will be capable of hitting the ground running.

In respect of designating different zones or areas, Hackney Council foresees some considerable challenges, particularly for metropolitan areas. Hackney is an inner London borough and almost all the land within its administrative boundary is either constrained or previously developed. The few areas of open space present across the Borough being composed of protected parks and open spaces that are essential for the continued well-being of our residents and communities. There are no large and contiguous potential Growth areas. Our existing growth strategy, set out in the recently adopted Hackney Local Plan 2033, focuses upon renewal and retention, or protection of our distinctive urban places. Our area-based approach for delivering future growth; as set out in the Hackney Local Plan 2033; identifies places such as Dalston, Hackney Central and Shoreditch as appropriate and sustainable locations that have the capacity to accommodate the planned-for growth. However, it noteworthy that these places are in reality complex - composed of opportunities for growth but also areas that genuinely demand protection (Conservation Areas and other heritage assets). The proposal's overly simplistic approach fails to recognise such real-world conditions and as a consequence, if applied in Hackney, would result in less growth.

Hackney Council, acting as the local planning authority, has through the current planning system, been successful in securing optimum development from the sites that have come forward across the Borough. It may be possible to further evolve the Council's area-focussed approach, so that it can provide a clearer and more prescriptive set of guidelines and "rules" for the development industry -providing even more developer confidence but this could be achieved through the evolution of existing policy rather than the unnecessary seismic intervention envisaged by the White Paper.

The White Paper proposals may provide a solution for districts and boroughs that lay beyond already intensely developed places. Such locations may provide opportunities to identify growth areas; possibly as urban extensions or new settlements.

Hackney Council suggests that a "loose code", which allows for flexibility in decision-taking, and supplementary guidance for identified Renewal areas could provide a positive alternative to what has been proposed. Nevertheless, such a code would still need to be flexible and subject to regular review and local democratic scrutiny. Hackney Council is aware of international examples where such codes have either failed or proved successful. There is evidence that design codes have been too rigid, such as that adopted and applied to the Nansledan development in Newquay. That development and its associated design code has attracted noteworthy criticism for the effect it has had on stifling architectural expression; creating a pastiche of the English rural idyl that bears no relation to place or history; and has had a negative impact upon visual character and appearance. Whilst it has proved popular in the short term there are significant questions over its longevity and legacy.

London Borough Of Hackney
Planning White Paper Combined Draft Response
21 October 2020

In contrast, looser, more flexible codes, such as those used for the redevelopment of Kings Cross, have demonstrably provided useful frameworks within which creativity and expression can be encouraged.

Hackney Council suggests that code could also be drafted for more complex situations; for example in locations where protected zones either lie within or adjacent to a renewal or growth zone. These could help to minimise the tensions that can arise between planning authorities, landowners, the development industry and local residents and communities. Such complex codes would be entirely dependent upon local consultation and governance. A national-level policy will fail to address such complexity. A good example of successful engagement and participation in the design process is the Bishopsgate Goods Yard site - where it has helped to bring together the development industry with local people. It is within this context that local codes, such as this, could engage people in proper proactive rather than reactive planning. Residents could find it reassuring to have an active role in preparing a local code for their area but must be stressed that this is dependent upon the ability for places to create their own policy and decision-taking frameworks. In such an environment objections would no longer be based on persuading and discretion, but on identifying breaches to the code and thereby providing a clearer decision-taking process..

Zonal/ Area Planning and Land Uses

Hackney Council notes that the White Paper appears to primarily consider the proposed Growth and Renewal areas as mechanisms for significantly boosting housing supply. In contrast the White Paper has little to say about other aspects of balanced sustainable (good) growth; particularly in respect of commercial uses. For future plans to deliver better places it will be essential to secure a balance of land uses that ensure that a strong and sustainable local economy is maintained. Within Hackney, we suggest that particular emphasis be placed on the long term protection of commercial activity as the primary use in London's Central Activity Zone and the City Fringe. Undermining the opportunities present within these areas in order to deliver the Government's housing objectives could have wide reaching economic consequences.

As such the proposed Growth, Renewal and Protected area concepts are general aspirations and not land use designations. This is in contrast to other zonal or area-focused planning systems that are in practise elsewhere. In those other countries zoning is positively utilised as a land-use management tool. The apparent simplicity suggested by the White Paper proposal is an illusion as it cannot be achieved, since it is proposed that Growth, Renewal and Protection areas would then be further cross cut, or divided by additional sub-area zoning. These could relate to land-use, height and density limitations, and by doing so creating at least four layers of zoning; all interacting in complex ways. Deciding which of these layered zones is the priority for a particular site may involve the use of planning judgment analogous with the current balancing of policies within existing local plans, with consequences in terms of the speed, consistency and certainty desired.

Defining Zonal/ Area Boundaries

As we know from neighbourhood planning experiments, defining boundaries for areas with different planning guidance, is one of the most time consuming and complex challenges in planning. Zones will need to follow detailed boundaries and this would require considerable consultation and resources. The potential for extremely fine grain detail within zones or areas (and their sub-areas as discussed above) could result in extremely complex and laborious exercise to identify and define these new boundaries. This appears to be counterintuitive as our existing and functioning planning system already addresses this matter. Such reinvention will inevitably add more time to the processes of plan-making and decision-taking rather than streamline them.

London Borough Of Hackney
Planning White Paper Combined Draft Response
21 October 2020

Any proposals for the zoning of areas should be determined at a local level, and should not be led by arbitrary housing targets that do not take into account local housing need, affordability and the genuine capacity of an area to deliver good quality development, including the high quality homes of the appropriate size and tenure that local residents need.

The Real Barriers to Delivering Growth

It is clear to Hackney Council that neither the planning system nor local planning authorities are the cause of failed delivery; genuine barriers to delivery have been clearly set out by the Letwin Report. These include-

1. The development industry is artificially manipulating supply to maintain rising house prices where the rate of build is equal to the rate of absorption and equal to acceptable profit and dividend. This significant barrier to delivery has been highlighted and evidenced by the Letwin Review yet the White Paper fails to address this issue. Within Hackney, during report periods between 2012 until 2019 there were in total of 994 unimplemented planning permissions for residential development. If these had been implemented by the development industry they would have delivered 2,130 net additional new homes¹. During these reporting periods there were in total 3,949 approved permissions for residential development in Hackney, of which 2,955 were either started or completed - securing 11,705 new additional homes. Within this context, the release of additional land for housing would be highly premature as it is clear that the development industry is projecting and actively seeks rising profits for itself through the manipulation of delivery and supply.
2. Land values, particularly in London and the South East, continue to rise uncontrollably. The consequences being that the majority of residents and communities cannot afford to enter the housing market. This has been clearly and robustly evidenced through numerous local plans prepared across London and the South East - notably, this includes the recent Hackney Local Plan 2033.
3. House prices continue to be linked to land values, not to household incomes. This significant contribution to unaffordability when coupled with the restricted supply of new homes.

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

Q6. 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.]

No.

Hackney Council strongly disagrees with the Government's proposals to set general development management policies nationally. There is some scope for setting a limited range of development management policies at national level broadly in line with what is already in place in the National Planning Policy Framework. However, such an approach should not prevent local planning authorities pursuing local planning policies where they are

¹ Source - LDD Housing approvals database covering the period 01/04/12 - 31/03/19.

London Borough Of Hackney
Planning White Paper Combined Draft Response
21 October 2020

necessary and supported by evidence. The Council's response to this proposal is set out under a series of headings below, each dealing with a particular aspect or outcome.

Within the above context Hackney Council contends that the existing National Planning Policy Framework (the NPPF) already sets national policies that help manage development. This approach works well and allows local planning authorities to effectively fill any naturally resulting gaps (in policy guidance) through their local plans. This process is demonstrably sound and is delivering growth. Hackney's recently adopted Hackney Local Plan 2033 (LP33) and track record of constantly increasing local affordable housing delivery are key examples of how the existing system can successfully deliver future growth.

The Continued Need for Local Planning Policies

The proposed changes to limit future development management policy to only those set out in the NPPF will fail in securing sustainable growth for our nation. One size does not fit all – that in itself is clearly supported by the current system. Regardless of any good intentions (for streamlining) there will always be a requirement to address distinct and in some cases unique local circumstances. It is proven that one set of national policies cannot anticipate such circumstances.

Local examples of distinct development management policy within Hackney, which are supported by evidence that has been subject to examination in public, include policies that address the provision of genuinely affordable housing; affordable employment floorspace; and proposals involving the redevelopment of railway arches. To ignore the potential of such policy interventions in the place shaping process would be both unsound and unwise. On the basis of the current White Paper proposals it is unclear how such important local policies could be incorporated other than as local development management policies. For that reason Hackney Council recommends that the Government does not pursue this proposal but allows for the current approach to continue.

Hackney Council suggests that local planning authorities in London, and indeed in other metropolitan areas, are not the same as boroughs and districts found elsewhere across the country. London authorities continue to work within a strategic planning system that is underpinned by the London Plan. That system is demonstrably successful in facilitating and delivering growth. In contrast unique in that respect and much of this is probably targeted at those authorities that don't and can't deliver on their housing numbers, so just quite troubling for local authorities such as us where we operate extremely efficiently and do deliver.

As an example Hackney Council highlights that the White Paper suggests that there is no need for the repetition of national policy, at the local level, in relation to the protection of listed buildings. Hackney Council believes that this is spurious, since such repetition is resisted by Inspectors at Examinations in Public and is therefore a process issue of implementation, rather than indicating a need for wholesale system change. In conclusion there is currently no repetition of national policy because the current system does not allow it. A straightforward solution that would obviate the need for a one-size fits all national development management approach would be to simply afford development plan status on the NPPF. This would provide national policy whilst at the same time allowing the necessary flexibility for local policies where they are needed and justified.

Local planning authorities are great repositories of local knowledge and expertise. That knowledge provides mutual benefits to residents, communities and the development industry. Whilst the White Paper proposals do not assume any change in this position it is reasonable to assume that the centralisation of policy-making will result in an evacuation of local knowledge and expertise, which will have a harmful impact on places and their

London Borough Of Hackney
Planning White Paper Combined Draft Response
21 October 2020

potential to accommodate good growth. As knowledge of local distinctiveness is lost it is reasonable to assume a default generic approach to place-shaping could fall in place. This is neither desirable nor sustainable. A significant outcome from such a desertion could be a nationwide loss of the very skills required for successful place-making. There is strong evidence that this is already happening. For example, there has been a steady nationwide decline in building conservation expertise; and of equal significance, following the revocation of regional planning there is now a palpable absence of structure-planning expertise.

The Democratic Deficit

The proposal, if enacted, will result in a significant and highly visible democratic deficit that could irrevocably erode public confidence in the Government and its ability to plan for future growth in the interests of the nation. Hackney prides itself on working closely with local residents, businesses and communities in planning and delivering the growth that Borough needs going into the future. This is evidenced through our successes with the Hackney Local Plan and its emerging area-focused Area Action Plans and Supplementary Planning Documents. These have placed local community involvement and engagement at the heart of the process. Hackney Council believes that its approach has helped secure local planning policies that are relevant and deliver growth with consensual support from those most affected. The Government's proposals will foreseeably introduce a democratic deficit that will erode all of the Council's good work.

It is telling that in spite of the repeated commitments to securing good quality design the proposed change removes from local communities their ability to manage development in the light of the local knowledge of the building stock, patterns of use and development and local needs. The proposal transfers power from local to central government where it will be exercised distantly and without reference to local concerns. The proposal is openly centralising and anti-democratic since it removes from local communities the ability to set planning priorities. Local democratic management of development is deeper and richer than providing a mere design code.

Hackney Council also expresses concern that the proposal removes the ability for local people, businesses and communities to comment on or object to planning proposals at the application stage. Hackney Council strongly believes that this fundamental right, which is enshrined in our national planning system must remain. Indeed, other aspects of the White Paper suggest that this right to comment and object could be enhanced through the sustained application of modern technology. Without the right to comment and object, trust and confidence in the planning system will be entirely eroded, with negative consequences for our society in terms of local democracy, the rule of law and social cohesion.

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

Q7(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.]

Not sure.

London Borough Of Hackney
Planning White Paper Combined Draft Response
21 October 2020

Hackney Council remains uncertain as to whether this proposal is either desirable or practical. Any position will be dependent upon further information on the detail of the proposed sustainable development test.

The proposal takes away the need to submit a sustainability assessment of the plan, which is contradictory with the government's climate change commitment which puts sustainability at the heart of plan making. Increased risk of judicial review without sustainability assessments given the Environment Bill. In order to enact the White Paper proposals it will require EIA legislation to be totally revised. This will inevitably make any transition towards a "new" planning system lengthy and uncertain. It is unlikely that such measures will help secure a rapid significant boost in housing, or indeed any other form of growth.

Hackney Council does welcome potential proposals that are clearly focused on the delivery of sustainable growth; on commitments to climate change mitigation and adaptation; and commitments to deliver all future development in the form of net-zero carbon buildings by 2050. Hackney Council believes that these would be timely and very positive promised outcomes from the White Paper..

Proposals to change the planning system to simplify and facilitate the assessment of sustainable development are also welcome. However, the simple substitution of sustainable appraisals for a 'sustainable development test' may be insufficient to successfully reach much needed sustainable development goals. While it is important that the environmental impact of local plans are thoroughly assessed, there is a risk that the social and economic effects are no longer prevalent.

National policy defining a sustainable development test can promote transparency, facilitate a wider dissemination to industry stakeholders and ease comparison of performances. But must not be seen as a deterrent of commitments that exceed proposed target levels. Excellence in environmental parameters must be praised and promoted. Consequently, until a clear assessment of the content and methodology of the proposed test is published it is difficult for Hackney Council to make further judgements about its utility.

Hackney Council takes this opportunity to highlight that the recently adopted Hackney Local Plan 2033 incorporates high sustainable development commitments. Of particular note are the policies relating to Hackney's Green and Open Spaces and Protecting the Environment and responding to Climate Change themes.

Q7(b). How could strategic, cross-boundary issues be best planned for in the absence of a formal Duty to Cooperate?

Hackney Council believes that London already has the best form of strategic/ structure planning available - in the form of the Greater London Authority led London Plan process. Hackney Council contends that the White Paper proposal must not undermine what is already an effective structure planning mechanism.

There is strong evidence to demonstrate that the London Plan provides an effective framework for not addressing strategic cross-boundary issues. For that reason in the absence of the duty to cooperate there needs to be a London Plan and other forms of sub regional planning. Our existing structure planning system, within London, already provides an effective mechanism that addresses this matter. Hackney Council believes it would be unsound and unwise to abandon this established approach.

**London Borough Of Hackney
Planning White Paper Combined Draft Response
21 October 2020**

Whilst strategic planning beyond the Capital's administrative boundary is not ordinarily a matter Hackney Council would wish to become involved with - it is clear that the absence of a national statutory structure planning tier is a major shortcoming of the English Planning System. Hackney Council believes that the proposed changes provide an opportunity to make good the mistake made in revoking regional planning. Hackney Council strongly believes that the reintroduction of a statutory regional planning tier will help many of the problems experienced by planning authorities over the last decade. It will provide an effective mechanism, as it does in London, for meeting the challenges of growth and infrastructure planning.

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.

Q8(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.]

No.

Hackney Council strongly disagrees with the Government's proposals relating to the application of its standard method, and the formula that sits behind it. The standard method is a crude and arbitrary mechanism for calculating and setting housing requirements for individual local planning authority areas at a national level. It is noteworthy that the Government's own political housing target (300,000 new additional homes per annum) is not derived from any reliable technical evidence base. The standard method is an artificial mechanism for arriving at the Government's target and as a consequence is unreliable and unsound.

The standard method fails to take account of complex housing market issues that impact on places like Hackney. This is particularly true in respect of the pressures the Borough is under in relation to housing delivery and supply. In our experience, assessments of affordability need to be much more sensitive to local housing markets and the ability of local residents to access good quality housing that is affordable relative to their income.

Hackney Council reiterates for this proposal its concern that the White Paper will create a significant democratic deficit. The standard method effectively sets housing targets, and by default growth strategies for places, without any form of community engagement. As a consequence this proposal has the power to disenfranchise planning committees in decision-taking but also local residents, communities and businesses; the latter including the development industry.

Hackney Council strongly believes that the standard method is demonstrably unsound. It continues to be too demand focussed - as a consequence it works in a highly perverse manner; effectively burdening places that have already been successful in meeting the challenges of growth with even more growth.

London Borough Of Hackney
Planning White Paper Combined Draft Response
21 October 2020

The significant boost that the standard method formula applies is too heavily weighted towards meeting the arbitrary annual target of 300,000 new additional homes per annum. The consequence is that places that have already accommodated large scale growth must now accommodate even more. It is also true that those areas face significant challenges in affordability, which rising targets will fail to address. Hackney Council remains very concerned over the apparent fixation with meeting an arbitrary target, which itself has no basis in sound evidence. Good planning and place making is not solely about delivering numbers and beautiful places - the White Paper proposals are weak on the socio-economic considerations of place-making. In particular the delivery of social value, supporting the economy and business.

It is important to note that setting a housing requirement is not just about meeting an arbitrary number of homes - if this was the case then a local planning authority could seek to deliver only one-bed and studio homes for market sale and therefore technically 'meet' their housing number requirement. However this would bear no resemblance to the homes that are actually needed by local residents. Setting local housing requirements should in fact recognise the complexities of local housing markets, particularly in London, and seek to take a proportionate and evidence based approach to responding to local housing needs

Q8(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.]

No.

Genuinely Affordable Housing

In stark contrast to locally prepared strategic housing market assessments (SHMAs), the standard method's overly simplistic formula fails to take any account of local conditions and housing needs. As a consequence its output, the 300,000 new additional homes per annum that delivers the Government's electoral pledge, is a flat meaningless figure. Sound evidence from locally prepared SHMAs demonstrates that the majority of all future new homes in Hackney need to be genuinely affordable. This position is soundly evidenced by the Council's own SHMA, which prepared in support of the recently adopted Hackney Local Plan 2033.

The challenge of continually rising land values remains. As a consequence, the White Paper proposals will fail to address affordability. Hackney Council reiterates that intervention in the land price mechanism, and the provision of genuinely affordable new homes are deliverable alternatives to the White Paper proposals.

Hackney Council accepts that extreme macro levels, the proposal to rapidly increase housing supply, through the standard method, may have a very limited impact on improving affordability. However, Hackney Council considers the proposals crude centralised controlled assessment of housing need does not in any way reflect the specific housing challenges faced by the residents and communities of Hackney. The reality is that places like Hackney will not be able to significantly increase supply to the levels that would have a measurable impact on affordability. For the Government's approach to work the Borough would need to transform the typology of future development into something akin to that encountered in extremely high density megacities. Such high intensity vertical typologies are entirely alien to places like Hackney. Their introduction would have an extremely harmful impact on the visual character and appearance of the Borough, with further harm

London Borough Of Hackney
Planning White Paper Combined Draft Response
21 October 2020

being highly likely experienced by our statutory and local heritage assets. Given the high intensity of such typologies the potential impact on amenity (to residents and communities) could be felt beyond the Borough's administrative boundary. On that basis Hackney Council strongly argues that this aspect of managing housing supply and delivery is best left at local level to manage and implement. Our evidence of success demonstrates that such an approach works.

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.

Q9(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.]

No.

The proposed use of outline permission for the principle of development in Growth areas has the potential to leave many unresolved issues to be covered through subsequent reserved matters applications. It is well understood that this type of approach is not necessarily conducive to achieving good design. An approach that dedicates large amounts of time and resources to establishing the principle of development and relatively little time and resource on the actual design is highly unlikely to deliver either beautiful places or good growth. It is noteworthy that in the Council's experiences outline planning permissions nearly always come with indicative designs and design parameters. It takes significant resources to establish whether these are acceptable as these would then also form part of the permission. Providing automatic outline permissions may result in automatic approval of the accompanying outline designs, which are just as important in achieving good urban design as details such as materials. If no design parameters are included then very little has been gained and very little time has been saved.

Across the proposals for both Growth and Renewal areas there is a tendency to seek new routes to consent: such as reserved matters, Local Development Orders, Development Consent Orders, automatic consents through a fast track to beauty, another faster application process and Neighbourhood Development Orders. This approach is not supported by the Council. Rather than maintaining a single route (Planning Permission), the proposals appear to introduce six different routes to permission. This adds to complexity and has an increased capacity to generate conflict and delay around which route to permission is appropriate and the different rules that would apply for each process. This is counterintuitive to the Government's objective of securing a "simplified" planning system.

One option for securing a faster route for detailed consent would be to continue the 'front-loading' of the process through local plans. This would allow for the inclusion of more detailed policies on specific sites in terms of height, density, preferred uses and priority housing tenures. However, it is important such plan-making continues to be determined at a local level taking into account the needs of the area.

Q9(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.]

Not sure.

Hackney Council agrees that planning permissions should remain a requirement for development proposals within identified Protected areas. This is welcomed. However, greater clarity is needed about how the Protected areas will be defined. It seems clear that Conservation Areas will be included but it is less clear what the position will be in relation to other heritage assets and their settings which fall outside Conservation Areas. Hackney Council also seeks clarity on the anticipated relationship between protected areas and the scale growth anticipated through the Government's standard method. As set out above, it is apparent that the identification of protected areas could result in lower-levels of growth than is currently being planned-for and delivered. Hackney Council highlights Dalston, Hackney Central and Shoreditch as places that are currently identified as being suitable for accommodating growth but which would under the Government's proposals be most likely identified as protected areas. Such tension suggests that there may be an implied requirement upon planning authorities to revisit protecting land use designations (such as Conservation Areas) purely for the purpose of accommodating the output from the standard method. Hackney Council would be strongly opposed to such a position.

Hackney Council does not support the removal of the current system of local consultation in relation to planning permission in Protected areas. The statement: "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" is very weak and unclear. The best system for consulting neighbours and interested parties is that which currently exists, with modernisation to allow the use of new technology.

Q9(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.]

Hackney Council has no comments to make on this aspect of the proposal. As an intensively developed urban metropolitan area, Hackney is unlikely to be an appropriate location for new settlements.

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

Q10. Do you agree with our proposals to make decision-making faster and more certain?

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

No.

London Borough Of Hackney
Planning White Paper Combined Draft Response
21 October 2020

Hackney Council broadly supports measures that could consistently and reliably improve the speed of decision-taking - subject to those measures meeting the fundamental objectives of securing good sustainable growth. However, setting out development management policies nationally is a blunt instrument and will remove local control, oversight and accountability. The NPPF should maintain its focus on strategic and high level issues, with regional and local policies giving the important local context. There is already a requirement for regional and local policies to accord with national policy, and it is good practice that local planning policies should not regurgitate policy that already exists at a regional and national level.

Furthermore, a single set of generic national policies will be inadequate in responding to the vastly different circumstances various local authorities face when assessing planning applications - this can range from inner city locations such as Hackney, through to rural and coastal locations, national parks or former industrial towns. All of these require a considered and robust local interpretation of strategic national policy. Without this it is arguable whether any national priorities will in fact be delivered, as planning applications will become further mired in confusion without the benefit of local or regional policy. In addition to this Local Authorities should have the ability to bring forward policies that specifically respond to the needs of a local area - be this the prioritisation of housing, or the protection of local green space/amenity areas.

Hackney Council expands on its position in respect of this proposal under the following headings:

Faster Decision-Taking

Hackney Council only partially agrees with the Government's view that decision-taking needs to be faster and more certain. Hackney Council highlights that there is no clear demonstrable link between the quantum of development and the speed of granting planning permission. In contrast to the Government's perception of local planning authority performance, Hackney determines over 90% of all major applications and over 80% of all minor applications within the current national targets.

Hackney Council suggests that the Government's assertion that faster decision-taking will correspond to an increased housing delivery is flawed. In the Council's experience as a local planning authority that has consistently met its housing requirement, build-out and sales rates are purposely manipulated by the development industry. This is recognised as market absorption and is not something that can be managed through the planning process. It is an established practice that large development sites are never marketed for sale as single entities but in small portions. This ensures that demand is kept higher than supply. It is also well evidenced that during times of reduced house price value, perversely at points in time when there is increased affordability, the development industry will suspend construction in order to await a point in the economic cycle when demand and prices are higher (less affordable). In the Council's experience it is the developer's priority is to gain planning permission in order to increase the value of their land. Upon doing so the land can then change ownership several times over several years before anything is built, if at all. This is a structural issue with the market in land, not the fault of the planning system. The proposals set out in the White Paper fail to address this matter - as a consequence it is likely that the White Paper proposals will fundamentally fail in their objectives.

The Greater Use of Digital Technology

Hackney Council finds the inclusion of digital technology within the White Paper as curious. Digital technology is simply an enabling tool - albeit one that we are all globally moving towards. Its inclusion within the White Paper is puzzling because it infers that it provides a "magic" solution to the problems being perceived by the Government.

London Borough Of Hackney
Planning White Paper Combined Draft Response
21 October 2020

Without doubt increasing and evolving application of digital technology is already making a positive contribution towards the work undertaken by local planning authorities - whether decision-taking; plan-making; compliance; or enforcement. That evolutionary process has never required legislative or policy change. It is naturally led by best value and good business practice.

Hackney Council welcomes the general direction of improving the planning system's use of ICT and online availability of information. This is already happening well in advance of the White Paper. For example, Hackney Council has taken positive steps in this direction with its own mapping system and website availability of all planning information. Examples of how Hackney Council has embraced evolving digital technologies include the adoption of Submit My Plan (for decision-taking); GIS applications for infrastructure planning; the London-wide LDD for performance monitoring; and more recently (in response to the COVID19 restrictions) virtual on-line engagement panel meetings and workshops to contribute towards the preparation of the draft Dalston Plan. Where progress has been limited, this has been due to lack of resources. This could be addressed through the provision of funding from the Government for such specific investment.

Local planning authorities, including Hackney, are already utilising digital technology to improve processes to ensure that decision-taking and plan-making targets are met. This includes the evolving use of automated processes at the submission and validation stages. However, the suggestion that automation can positively impact on decision-taking is misguided. Decision-taking requires, and will continue to require, professional assessment. The technology for consistent and reliable automated processing of application documentation at submission and validation stages is conceivably (subject to investment) within reach (during the timeframes envisaged by the White Paper). In contrast the technology prerequisite for making professional assessments, which understands context and impact, is distant.

In particular, Hackney Council challenges the suggestion that a proportion of future applications could be submitted in a data rich format and then assessed against a digitised design code that could also worryingly relate to heritage matters. Hackney Council considers that this would result in a binary model of assessment, which would assess "beauty" through a series of automated processes. Perversely this proposal appears to be in open conflict with the White Paper's objectives set out under Pillar 2. Furthermore Hackney Council suggests that by reducing the assessment process to an automated tick-box exercise the Government not only introduces a profound democratic deficit (to the Planning System) but also alienates residents, businesses and communities who will be entirely disenfranchised from a system that is currently democratic and inclusive.

Hackney Council challenges the Government's assumption that access to the latest digital technologies is uniform and universal across the nation. The Council's own experience from comprehensively engaging with local residents and communities suggests that increased use of digital technology may exclude certain groups of society from participating in the planning process because they do not have access or are unable to use digital technology. This is particularly acute, although far from exclusive, in metropolitan and urban areas that experience high rates of deprivation. Access to digital technology is not limited to socio-economic circumstances. Experiences gained during the COVID19 pandemic demonstrate that different age groups are also affected by this matter. This is not a simple case of polarisation between the very young and old but is more nuanced. Indeed evidence suggests that many with the 25 - 40 age bracket have limited access (in most cases solely through smart phones) to the internet. This may be a position that evolves over time.

**London Borough Of Hackney
Planning White Paper Combined Draft Response
21 October 2020**

Consequently, Hackney Council recommends that the White Paper does not place all of its faith in technologies that may not be entirely ready.

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

Q11. Do you agree with our proposals for accessible, web-based Local Plans?

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

Not sure.

Overall, the proposals for greater use of new technologies to secure improvements in community engagement is welcomed. In recent years, Hackney Council has updated their practices to explore more creative, digital avenues of engagement and consultation such as use of Common Place. However, Hackney Council seeks clarification as to whether the proposal will be supported with funding for training and resources on ground to ensure this is democratic and meaningful? It is vital to remain aware that a sole focus on the use of digital technology holds the significant potential to disadvantage those residents and communities who do not have easy access to the internet or the technology. In Hackney Council experience this will disadvantage more vulnerable groups: children and young people, the elderly and economically disadvantaged families. The planning system needs to retain at least a backup non-digital system for individuals and groups who would be disadvantaged by a planning system entirely reliant upon virtual technologies.

Hackney Council seeks to illustrate its position with reference to its recent experience during the preparation and production of its draft Child Friend Places Supplementary Planning Document (SPD). A key objective in preparing the SPD is to improve how Hackney Council engages with and involves children and young people in the planning process to ensure that their specific needs are considered and met within new developments. Within the document there is a specific chapter on guidelines for engagement and consultation with children and young people, supported by case study examples of best practice. This chapter could support addressing the democratic deficit arising out of government proposals over time. Hackney Council could seize upon this chapter to support and justify its future initiatives.

In addition to an explicit chapter, the lessons learnt through the engagement process on the SPD will inform an update to the Council's Statement of Community Involvement. That document outlines the Council's standards for involving and engaging with the community, including children and young people, in the planning process (both in plan-making and planning decisions) and identifies the tools for how this will be achieved.

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.

Q12. 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.]

Hackney Council has no comments on this proposal.

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

Q13(a). Do you agree that Neighbourhood Plans should be retained in the reformed planning system?

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

No.

Despite the Council's best efforts to support Neighbourhood planning in Hackney, it has not proved to be an effective framework for community involvement in plan-making and has been of limited use in promoting local involvement in decision-taking. To date no neighbourhood plans have been successfully in Hackney

The reasons for this failure are clearly demonstrated through the Council's experiences in the Stamford Hill area. In that location, there are two opposing community groups who have wanted to set up Neighbourhood Forums. Clear tensions emerged in response to planning the future of the area. Hackney Council responded positively in order to restore community relations by leading on the development of a strategy for growth in the area that sought to unite the Community and restore trust in the Planning process. By working with both sides, Hackney Council developed an alternative approach which put in place resources to develop a fully inclusive Area Action Plan . The emerging Stamford Hill Area Action Plan is a positive outcome from this process. This has been achieved by Hackney Council and the local communities in spite of the neighbourhood planning process rather than through it.

The complexity of the Stamford Hill area in terms of its social and cultural mix has proved to be a significant challenge for the local community in their aspiration to deliver a socially cohesive Neighbourhood Plan. In contrast Hackney Council has used the existing planning system to positively address social cohesion by developing an inclusive approach which has sought to ensure that everyone in the community has an opportunity to shape the process and participate in developing an important planning document.

Q13(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?

Hackney Council welcomes the use of digital technology to enhance local involvement in plan making. For example, Hackney Council has set up successful Community Panels in Stamford Hill and Dalston where digital technology has been used effectively to widen involvement across the community. However, such resources can be prohibitively expensive and Hackney Council would welcome additional funding in this respect. Hackney Council is unconvinced that funding local groups directly would lead to wider access or involvement; there is no evidence that such models are consistently replicable.

Proposal 10 - A stronger emphasis on build out through planning

Q14. 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.]

Yes.

Yes, we agree but build-out, or the lack of it, is not the fault of our national planning system, which overall approves 80%-90% of all planning applications. The Government's own evidence, the Letwin Review, identifies the key issues relating to absorption rates within the housing market, and these key issues should be addressed.

On that basis we would seek more radical reform: the grant of permission (by whatever process) should come with an enforceable obligation to build what is consented. This would prevent land banking and the onward sale of sites without development. Hackney Council highlights its role as a local housing developer, delivering genuinely affordable homes that meet local needs. Hackney Council suggests that if the Government is serious about introducing interventions that secure build-outs then it explores potential options that transfer land with unimplemented permission to local developers with a strong consistent record of delivery - for example the London Borough of Hackney. Hackney Council welcomes such an intervention as it would meet the shared objectives of significantly boosting supply and meeting real local housing needs. It is noteworthy that evidence clearly demonstrates that the only points in recent history where we as a nation have exceeded the Government's aspiration to build 300,000 new additional homes per annum have been during periods of sustained home building by local government.

Alternative measures such as land value taxation or the nationalisation of land should also be contemplated if the Government is serious about interventions in this area.

Pillar 2 - Planning for Beautiful and Sustainable Places

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

Q17. Do you agree with our proposals for improving the production and use of design guides and codes?

Hackney Council makes the following observations on the Government's proposals:

Identity, engagement and design guides

Hackney Council encourages forms of development that utilise good design and encourage innovation. In this respect design guides are helpful and do improve the quality of design in development. Hackney Council has a number of such guides as SPDs. These provide detailed guidance but do not seek to be overly prescriptive nor to address every type of development. Design codes are a quite different matter. Hackney Council considers that Design codes would discourage development which reflects the uniqueness of Hackney and the qualities that make it special. Hackney Council has always been a local planning authority that encourages design innovation, as a consequence our residents and communities remain proud of the local qualities that make it a special place to live and work.

During 2018 Hackney Council commissioned the preparation and production of the Hackney Characterisation Study. One of the aspects of the Study was the level of Community

London Borough Of Hackney
Planning White Paper Combined Draft Response
21 October 2020

engagement incorporated in its production. The engagement consisted of a series of workshops held with a diverse range of local people. Those who participated put forward very sensible ideas about how Hackney Council could manage and promote growth including the delivery of high density housing. As a consequence residents and communities were supportive of the scale of growth being proposed - based on an analysis of the existing context. The Study and its associated community engagement outputs was used to inform the preparation of the local plan and local design policies, which encourage sustainable development.

Design codes and appropriate development

Hackney Council considers that national, or even local design codes cannot accurately define appropriate development on a one-size-fits-all basis. There are numerous variables, constraints and a range of potential solutions that carefully balance various restrictions that can be contradictory. Consequently it is unlikely that codes will, by themselves, fully meet all important guidance, policies and considerations. Hackney Council considers that decision-taking must be made on the overall planning balance, taking into account local context and circumstances.

In order to prepare sufficiently detailed design codes to prevent inappropriate development, if possible at all, would require immense resources, create far more work, rather than less, and extraordinary costs and time. Relying purely on codes, without any further design review and balancing of policies, could also eliminate variety in architectural style, form, massing, heights, colours, windows, layouts, house sizes, etc. Thereby stifling innovation and creativity, for which Hackney in particular is unique.

The Government's proposal would exacerbate the cookie-cutter approach already established by many developers. Focussing upon forms of development that maximise profits and minimise costs, while still technically meeting design code requirements. This would lead to a mass replication of basic standard design, without the subtle variety that makes places beautiful and distinctive. Beauty becomes defined by profit not place.

This binary approach also restricts innovation in terms of design, detailing and material choice. All of these elements are integral to ensuring that new development embodies the period in which it is built. It can also enable development proposals to push design boundaries. These innovative principles are part of the culture at Hackney and are embodied in our recent winners at the Hackney Design Awards.

Flexibility and density

Hackney Council believes that guidance, rather than codes, provides a more appropriate and effective mechanism for local authorities and developers to maximise development potential. Guidance does this by providing flexibility to consider proposals that might exceed allowed or intended dimensions and characteristics. In our experience, even strict design requirements can be relaxed in order to secure a planning balance. For example, in circumstances where public benefits such as housing supply are considered more important. Under the Government's proposal, future design codes would necessitate much stricter limits and a much stricter implementation of them, which could have the unintended impact of reducing rather than increasing housing delivery. It would be necessary to write codes for the most restrictive situations imaginable in a local area, rather than development criteria for average conditions. This could result in minimising the development capacity of many sites.

It is recognised that the development industry likes clarity. However, the application of strict and restrictive codes could result in reduced development capacity. It is widely accepted

London Borough Of Hackney
Planning White Paper Combined Draft Response
21 October 2020

and understood that current profit levels reflect the level of uncertainty within the planning process. By reducing uncertainty, profit margins should come down. This would not result in lower house prices, but could simply increase land values. Hackney Council makes more detailed observations on this matter under the proposals set out under Pillar 3.

It is unclear how proposed design codes would be tested by the Planning Inspectorate. There would be insufficient precedents of either effective or counterproductive examples. Given the White Paper's objective to increase the housing supply, it is anticipated that the Inspectorate would experience significant delays when determining the appropriate degree of restriction to codes. Developers nationwide will be lobbying for reducing the amount of restrictions or changing the standards. Hackney Council is concerned that the outcome will be a reduction in beauty, not the creation of it.

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.

Q20. Do you agree with our proposals for implementing a fast-track for beauty?

Popular beauty for faster densification and Permitted Development Rights
Hackney Council does not support the use of design codes nor the proposed reform of national planning policy, which would assist applications conforming with design codes. Pattern books promoting the copying of "popular" designs to facilitate speedy high-density development will work against the principles of beauty. They are also contradictory to a desire for innovation and modern methods of construction. Hackney Council is unconvinced that such replication enables densification, or local acceptance of it, nor speed up housing delivery in dense urban environments.

It is highlighted that the Government's own "Living with Beauty" report is highly critical of the design consequences of recent changes in Permitted Development rights. Hackney Council concurs with this critique. The proposal to provide permitted development rights in areas of renewal would have an adverse impact on place-making.

Currently, the permitted development regime includes conditions that require design elements such as matching materials and in some cases a test relating to appearance. These conditions are vague and unenforceable in practice. It remains unclear how tests such as "appearance" relate to local policies on design and whether they can be applied to Permitted Development applications. The proposed use of Local Orders to modify the set of standardised forms to align with local acceptance complicates the system further. This will only add a layer to what is in essence a similar process to gaining planning permission under the current system.

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.

Hackney Council is committed to mitigating and adapting to the adverse impacts of climate change through plan-making and decision-taking. The recently examined and adopted

London Borough Of Hackney
Planning White Paper Combined Draft Response
21 October 2020

Hackney Local Plan 2033 sets out a positive approach to this critical aspect of place-making through its growth strategy, area-based approach, planning policies and site allocations. Hackney Council welcomes proposals that would genuinely allow its approaches to this matter to evolve for the benefit of local residents and communities.

However, it is difficult to identify a single part or proposal within the Government's White Paper that refers to any environmental or climate change mitigation measure either at plan-level or site-level. At plan-level, the proposal to remove the requirements for sustainability assessment is contradictory to the Government's climate change commitment which puts sustainability at the heart of plan making. In addition, given the Environmental Bill, there is an increased risk of judicial review. It is noted that the introduction and implementation of the White Paper proposals would require Environment Impact Assessment legislation to be totally revised.

At site-level, Hackney Council considers that any clear proposals to revolutionise the planning system to secure net zero carbon in the near future, must include the rigorous assessment of applications. It is unclear how the White Paper's proposals to streamline planning processes, alongside the associated removal of sustainability and environmental assessments can achieve this objective.

In our experience, decisions made during the early stages of the design process can determine the energy performance of the building. Developers see this as a capital cost and resist adoption of such measures. Consequently, if effective assessments are discarded in early stages and sustainability and energy performance is verified only at post construction by building control, viable and effective opportunities are likely to be missed.

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.

Hackney Council welcomes, in principle, proposals that seek to simplify requirements and improve the assessment of environmental impacts of future development. That support is made on the basis that such proposals prevent unsustainable development, and protect and enhance ecosystems. However, Hackney Council suggests that special care should be taken to avoid the adoption of generic approaches that do not account for all potential development scenarios and therefore avoid the requirement to undertake more detailed and thorough assessments.

Hackney Council notes that this proposal seeks to introduce a new simplified framework for assessing environmental impacts that only protects and enhances the most valuable and important habitats and species in England. It is entirely unclear how the future grading of habitats and species will be undertaken and by who. Hackney Council is concerned that the proposals are unclear on how much value will be placed on habits and species that are considered to be of local value and importance. The wording of the proposal suggests that even if a proposal impacted on a large number of wildlife, flora and fauna interest, if those were not deemed the most valuable or important on a national scale, even if they were valued by local residents and communities, that won't be a reason to protect those interests. This could have a significant impact on Hackney Council's ability to protect biodiversity and green spaces across the Borough for the benefit of the community.

London Borough Of Hackney
Planning White Paper Combined Draft Response
21 October 2020

Allocating resources to the enforcement of regulatory commitments remains important for enforcing sanctions, restoration and remediation of areas of environmental damage. However, the costs associated with this key part of the development process may be exacerbated by the proposal. Hackney Council considers that the focus should instead be to guide, assess and avoid adverse impacts in the first instance before consideration be given to mitigation or eventually measures that compensate and restore.

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

Hackney Council is very concerned about giving architectural specialists autonomy from routine listed building consents. We reject the distinction between “the most important historic buildings” and some non-specified set of historic buildings. All listed buildings and Conservation Areas have, by legal definition, “special interest” either national or local and all require our support and protection. There is already a mechanism in place which ensures a higher degree of attention is paid to Grade I and Grade II* listed buildings (consultation with Historic England) and anything less than this suggests an attempt to water down the protection of historic buildings and areas. It is disputed that there is such a thing as “routine” listed building consent since every listed building is unique and has different features and a different level of preservation of historic features.

Hackney Council rejects the suggestion that suitably experienced architectural specialists could have autonomy from the listed building consent regime. The designation of a building as listed or an area as a Conservation Area is a legal infringement on private rights in land, which is only acceptable because such an infringement is in the public interest to protect the national and local asset of heritage: patrimony trumps ownership to some extent. It is essential that the limitations and controls which the designation of heritage assets brings are exercised for the public good by a public authority. In practice, the attempt to privatise this process would be corrupting, with the rapid development of a private market in consultants who will “go easy” on owners and harm significance in the interest of their paying client rather than the national heritage interest. The Grenfell tragedy demonstrates all too clearly how the privatisation of regulation results in the reduction of safety standards: this model of regulation should not be extended to heritage.

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.

Hackney Council welcomes proposals that genuinely seek to improve and evolve the energy efficiency standards of new buildings, especially where such improvements positively contribute towards mitigating and adapting to the adverse impacts of climate change. However, we suggest that the Future Homes Standard is simply not ambitious enough to meet the Government’s claimed objectives. Established evidence prepared by the GLA and London Energy Transformation Initiative (LETI) demonstrates that the Government’s Future Homes Standard falls behind existing adopted standards set out in the GLA’s London Plan and in local plans prepared by London Boroughs. Consequently, Hackney Council does not believe that the proposed Future Homes Standard is a good enough benchmark, especially when higher standards have been examined and found sound.

London Borough Of Hackney
Planning White Paper Combined Draft Response
21 October 2020

Hackney Council highlights that specific targets and the roadmap towards net-zero carbon homes are yet to be clarified, and that these are expected to form part of the response to the consultation on the Future Homes Standard. Of equal importance, proposals for the improvement of the energy performance of existing buildings and non-domestic buildings are as yet unknown, as are many other aspects associated with the built environment and climate change. Hackney Council suggests that the Government give further consideration to further proposals that address overheating, water scarcity, energetic infrastructure upgrades, life cycle in construction and the health and wellbeing of the populations.

Hackney Council welcomes the clear reference to the protection of designated areas of environmental and heritage value and flood risk assessment, as well as proposals promoting environmental recovery and long-term sustainability, and increasing biodiversity net-gain. We also welcome the reinforcement of national and international commitments that address the adverse impacts of climate change. However, it is highlighted that the actual actions and how these are implemented in the planning process is still very vague. Hackney Council is concerned that the White Paper proposals appear to suggest a reduced level of intervention from local authorities during the planning, design and construction stages - relegating intervention to the reactionary process of monitoring and enforcement.

Hackney Council is concerned that in spite of the claimed emphasis on sustainability and net-zero carbon, developers in designated growth areas will be allowed to submit permitted development right applications for rapid approval, without any sustainability assessment requirements. The current permitted development regime only considers flood risk during the planning assessment process. This is inadequate and provides a route for genuinely unsustainable development to be approved without an appropriate level of scrutiny. As it stands such developments only need to comply with current Building Regulations - namely Part L, F and G. Hackney Council strongly recommends that the permitted development regime be comprehensively reviewed as an integral part of any review of the national planning system. In particular, the permitted development regime must secure genuinely sustainable development as such must consider a more comprehensive range of sustainability measures, beyond those currently considered. This must include due consideration of housing space standards, car parking provision and genuinely affordable housing.

Pillar 3 - Planning for Infrastructure and Connected Places

CIL and S106 planning obligations under Reg 122 ensure that development is acceptable in planning terms enabling planning permission where that otherwise would not be the case and also capture land value capture mechanisms, The Levy proposals do not have any regard to these or provide an evidenced alternative for securing mitigations, containing land values and capturing the uplift in land values following permission. These proposals result in complete de-coupling of strategic and site-specific infrastructure funding from site development and sustainable development and in the delivery of genuinely affordable housing. In consequence, what is proposed is not, in effect, an 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.

London Borough Of Hackney
Planning White Paper Combined Draft Response
21 October 2020

Q22(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?

Hackney wishes to see a Levy which is capable of making a genuinely meaningful contribution to mitigate the impact of development and deliver the necessary infrastructure and affordable housing to support growth. The current CIL+S106 system provides both flexibility (via the negotiation of section 106) and much-needed certainty (via fixed CIL rates) based on viability considerations and the recent removal of pooling restrictions was much-welcomed. However, there is still widely-held frustration with aspects of the s106 process which sees planning obligations negotiated down against price paid for land. This has been an area of much discussion at the GLA Viability Group attended by all London local authorities. Hackney along with all other local authorities would like to see this addressed at the national level

The new proposal is not supported by an evidence base. Hackney would welcome financial modelling which demonstrates that a flat, top-slice of (unpredictable) sales values would provide genuinely meaningful receipts for infrastructure and housing and maintain the link between development and its accountability and acceptability as stated in Reg 122. We deem it unlikely that the new Levy would provide the same level of receipts let alone more and will de-couple developments from being accountable for their impact on infrastructure. Hackney currently secures 25% of CIL receipts against receipts secured via s106 clearly demonstrating that compliance with Reg 122 and receipts from associated s106 is absolutely crucial to development providing for its infrastructure and affordable housing.

The proposal is based on receipts being predicated on gambling against the future performance of the property market and carries all the financial risk inherent with this and council's would be irresponsible to do so, not would lenders be amenable to this. This also introduces debate of who will undertake the valuation, what methodology to use, replacing debate over how viability is calculated, and whether there will be an appeals process, replacing viability discussions, in effect, replacing one set of issues with a new set.

Under the current system viability takes place only when the application is non-compliant with policy. Under the new proposals, EVERY development will have to undergo valuation which will have greater resource implications than those resulting from viability assessments.

The Government should centralise the data used for valuation/viability assessments and standardise valuation/appraisal templates just as it seeks to centralise development management policies and template design codes to provide greater transparency and accountability to secure the local, proven level of policy-compliant affordable housing (on/off-site or payment in lieu) as tested and examined by the Planning Inspector.

Hackney is of the view that the benefits of the current system outweigh the rigidity and complexity of the proposed Levy. It is therefore advocated that the current method for securing developer contributions is retained, albeit subject to improvement.

The new Levy does not provide detail of the non-financial s106 Heads of Terms and how these would be secured. A core role of planning obligations is to embed these obligations in the price of land to ensure land values reflect the policy obligations required to make developments acceptable. The new Levy would decouple land values from sustainable development and remove its role as a break on escalating land values resulting in rising valuation, viability, infrastructure and sustainability challenges and thereby undermining the core principles of balanced and sustainable development.

London Borough Of Hackney
Planning White Paper Combined Draft Response
21 October 2020

With regards to the thresholds approach, this will result in a decrease in funding for infrastructure for Hackney where a greater proportion of levy payments are captured from smaller developments with such developments falling below the levy threshold. Even small developments in growing and high-demand urban areas accrue healthy sales profits despite high land values and should contribute to infrastructure.

More importantly, any receipts due would be compromised by the First Homes proposal which would absorb most of our receipts to make it an actual intermediate product in Hackney where median household incomes are £35,000 pa, and will drain our Infrastructure Levy receipt for little else.

Any new approaches must absolutely guarantee that the same amount of affordable housing (social rented and shared ownership) can be secured as a minimum albeit as insufficient as it is. The very reason so many local authorities across the country have not adopted CiL schedules is precisely because there is more certainty and income via s106 than CiL. Again, as demonstrated above, Hackney successfully secures four times more in s106 than in CiL.

S106 is currently payable on granting of permission so the local authority does not incur the financial risk which payment on occupation would impose. There is a risk of payments potentially not forthcoming should viability reduce below a threshold. This arrangement effectively transfers risk from developers to councils. We are already under immense financial pressure so this liability would be unsupportable. Enforcement of payments would need to be legislated for.

Q22(b). Should the Infrastructure Levy rates be set nationally at a single rate, set nationally at an area-specific rate, or set locally?

One size does not fit all, especially in such a diverse country with widely differing sub-regions. The rate will have to be set locally to reflect the specific market and property conditions within a local area, and to reflect the specific costs of delivering infrastructure within that area. CiL schedules are complex precisely because areas are complex. The new proposal does not reflect the complexities of local markets in an inner London area, and will not ensure effective value capture, resulting in an area like Hackney losing out on the appropriate proportion of infrastructure funding required.

Q22(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?

Hackney Council has seen significant, consistent real terms cuts to its central Government funding since 2010 which has had a direct impact on the delivery of key types of infrastructure including schools and transport. In addition to this the level of Government funding available for genuinely affordable social rent and intermediate homes bears no resemblance to the scale of need faced by boroughs like Hackney. It is in the context of Council services and infrastructure already under extreme pressure from over a decade of austerity that any Infrastructure Levy should aim to significantly increase the value of any contributions from development for infrastructure.

The Levy or any alternative to the current system proposed should capture more. Developers are deft at using viability appraisals, and in particular EUV, to argue for their inability to comply with policy and associated obligations despite Area Action viability

London Borough Of Hackney
Planning White Paper Combined Draft Response
21 October 2020

assessments and determination of the CIL Schedule which has undergone inspection by the Planning Inspectorate at examination. Hackney has a good record of carrying out robust scrutiny of viability appraisals against developers' poor viability claims but the planning system is still structured to permit scope for minimising obligations. The new proposal will not resolve these issues but instead replace viability games with valuation games exacerbating the lack of infrastructure and affordable housing delivery.

In addition to varying valuations and the risk of gambling on the future performance of the property market, there is also the complication of the time lags and market performance between valuations at permission, on completion and occupation on top of the UK's economically inherent boom-bust cycle. Developers could take advantage of this, particularly in the event of an economic crisis or market crash, to protect cashflow leaving any local authorities who might have borrowed against predicted receipts with huge debts and associated rising interest payments and a larger proportion of the electorate in a housing crisis. We have seen several boom-bust cycles in the last 30 years with recovery from each not reaching previous levels. Such cycles would fail to provide for infrastructure for sustainable development. Forward-funding is already available to councils for various initiatives but has not been taken up on a wide basis precisely because of the level of risk.

The government will need to legislate for the enforcement of build-out and occupation within a timescales which does not leave local authorities exposed to financial risk. Proposals should aim to enforce policy compliance and make planning obligations truly obligatory having been tested and examined by the Planning Inspector during plan-making. Delays in build-out and occupation should incur financial penalties.

There would need to be very extensive consultation - planning, legal, financial, corporate and political - on any attempts to standardise such a risk at any level.

Q22(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.]

No.

The onus should not be on a local authority to deliver, upfront, the vital infrastructure that supports new development - the risk should remain with the developer. The proposals would place an additional burden on already over-stretched local authorities, many of whom are facing significant financial challenges without taking on additional risks that the local authority would have no control over in terms of delays on completion or subsequent variations to scheme proposals due to viability constraints.

Furthermore the principle of local authorities taking on additional financial burdens is flawed given the existing financial pressures they face, and given that the Public Accounts Committee has recently called for the Treasury to comprehensively review the prudential borrowing framework and for MHCLG to publicly challenge risky behaviour of local authorities where they occur, intervene where investments are outside the spirit of the prudential code and improve transparency and data. TIFF was not adopted as widely as it was available precisely because of the level of risk and lack of guarantees involved.

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

London Borough Of Hackney
Planning White Paper Combined Draft Response
21 October 2020

Q23. Do you agree that the scope of the reformed Infrastructure Levy should capture changes of use through permitted development rights?

Yes. Any new development should contribute to its own mitigations and affordable housing provision though how these developments will be notified to the local authority is not clear.

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

Q24a&b) 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? 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?

No, we should seek to secure more and certainly not in the manner proposed. See response to Question 22 above. Hackney currently has a waiting list of over 13,000 households and over 3,000 homeless households living in temporary accommodation. Hackney is also the ninth most deprived local authority area in the country, where 70% of all households have an income of £30,000 or less. This is in a context where house prices in Hackney have risen by over 71% over the past five years and are among the highest in the country.

Hackney, through its own self-funded, direct delivery housebuilding programmes, is building 2,000 new homes between 2018 and 2022. The majority of these are for genuinely affordable social rent and intermediate housing. However, we can not address the housing crises alone and urgently need the Government to acknowledge this and take decisive action. The aim of any Planning reforms should therefore be to increase the supply of genuinely affordable housing that meets the needs of the majority of the population.

It is essential that the new system delivers more than 30% affordable housing, and that genuinely affordable social rent and intermediate housing is prioritised. The Government needs to deliver the homes so badly needed by giving local authorities and Registered Providers the tools to deliver these - most notably adequate grant funding and flexibilities over Right to Buy receipts in order to deliver genuinely affordable social rent and intermediate homes.

These proposals appear to disregard the housing challenges faced by the majority of the electorate and the funding challenges faced by their local authorities. Hackney receives significantly less than half of its affordable housing via on- and off-site delivery and payment-in-lieu combined. The removal of the ability to secure affordable housing on site will have a detrimental impact on Hackney's ability to meet the housing needs of its residents. It will also mean that local authorities would need to secure vast increases in funding from any levy to off-set the loss of current levels of affordable provision sought through current planning policy. This is before we begin to meet the outstanding housing which itself is incredibly significant.

By separating out the requirement to deliver affordable homes on site, and instead requiring a fixed levy payment in lieu, the onus is transferred from the developer to the local authority to deliver the homes to meet the needs of local residents. This will mean the local authority has to find a suitable site or sites to deliver the required affordable housing. In an inner London area such as Hackney land is scarce and the opportunities to secure and deliver sites for affordable housing are extremely limited. The Council would not be able to compete with private developers for land price paid . It is therefore imperative that the principle of

London Borough Of Hackney
Planning White Paper Combined Draft Response
21 October 2020

delivering genuinely affordable homes on the site where the requirement for affordable housing arises is retained and strengthened through planning policy.

Further squeeze on funding for genuinely affordable housing

In addition, the proposal that any on-site delivery be balanced off against the Levy and that affordable should be bought by the local authority at discounted market price would eat into a very significant amount of the Levy, particularly given the chasm between median household income and land values, and put local authorities even greater financial risk in delivering infrastructure.

Local authorities struggle with viability on their own land to deliver social rent at £100/week. Buying at cost from developers, which would include price paid for land, would not be a viable option for local authorities even with the option to “flip” units in the event of decreased sales receipts, which itself demonstrates a concerning lack of understanding of how affordable on-site is designed into a development.

This approach would only further compound the lack of affordable already being delivered and compound the reduction of genuinely affordable homes resulting from First Homes. The sheer cost of making First Homes in London a truly intermediate product would eat into the Levy even further. There simply would not be enough Levy left to make a meaningful contribution to the delivery of 66% of all new homes as genuinely affordable homes for our residents who are on the median household income of £35,000 pa, which is Hackney’s actual housing requirement; in addition to providing the infrastructure necessary to make the development acceptable in planning terms.

It is essential that the new system prioritises and delivers genuinely affordable social rent and intermediate housing. The Government needs to give local authorities and Registered Providers the tools to deliver these - most notably adequate grant funding and flexibilities over Right to Buy receipts in order to deliver genuinely affordable social rent and intermediate homes.

Finally the reforms assume that s106 is purely a tool for securing financial contributions towards infrastructure and affordable housing. They were never intended to be and removing this would take away a vital tool in securing affordable housing on scarce development sites in the borough. Removing s106 would also remove the ability to manage other vital aspects of a development that serves to ensure a range of socio-economic benefits for a local area such as securing jobs/training and apprenticeship programmes and affordable workspace.

Q24(c). If an in-kind delivery approach is taken, should we mitigate against local authority overpayment risk?

Whilst we do not agree with the principle of an in-kind payment, if local authorities are to be compelled to take such an approach to deliver affordable homes in their area, then consideration does need to be given to the additional financial burdens that would be placed on local authorities and mitigated accordingly.

Q24(d). If an in-kind delivery approach is taken, are there additional steps that would need to be taken to support affordable housing quality?

The question of quality is not a valid question because all units will have to be to the same quality and standard if the option to “flip” units is to be viable. In addition, developers and Registered Providers work together to ensure the affordable element of developments meets

London Borough Of Hackney
Planning White Paper Combined Draft Response
21 October 2020

specific requirements in which “quality” is implicit, therefore negating the need to explicitly take additional steps.

However, high quality affordable housing will not be delivered via an arbitrary, centralised approach based on a flawed algorithm that sets an empiric measure on housing supply or design quality. High quality housing design should be secured through a robust planning process that is grounded in sound Local Plans that are formulated by a transparent, democratic localised process.

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

Q25. Should local authorities have fewer restrictions over how they spend the Infrastructure Levy?

No. The current level of receipts is already insufficient to fund infrastructure, even with the pooling restriction removed, so the potential for further calls on this limited fund will not be supported.

Q25(a). If yes, should an affordable housing ‘ring-fence’ be developed?

Affordable housing should be funded as outlined above. Ring-fencing would help to ensure some contribution towards this but also implies it is not an intrinsic part of development but rather a secondary consideration. Hackney has little requirement for market housing, ie only a third of any new homes built. Its major housing requirement is for genuinely affordable at two thirds of any new homes built. “Ring-fencing” for this is inappropriate. On-site delivery according to policy obligations must be made obligatory as determined by the Planning Inspector at the Local Plan examination. The Government has to enforce this at the very least if it is to fulfill its duty to serve its electorate in its most basic human right of a secure and stable home.

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?

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

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

- the extension of Permitted Development Rights with no affordable housing requirement from 1 September 2020
- proposals which stipulate that ‘First Homes’ would take up the first 25% of the affordable housing requirement on a site, displacing other affordable housing tenures

London Borough Of Hackney
Planning White Paper Combined Draft Response
21 October 2020

- including sub-market rented housing (as proposed in MHCLG consultation 'Changes to the current planning system' which closed on 1 October 2020)
- proposals to temporarily increase the small sites threshold (below which developers do not need to contribute to affordable housing) from 10 units to up to 40 or 50 units, in order to support SME builders (as proposed in MHCLG consultation 'Changes to the current planning system' which closed on 1 October 2020)

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

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

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