



***Planning for the future***

**Network Homes' response**

## **About Network Homes**

Network Homes is an award winning housing association with 20,000 quality affordable homes across London and Hertfordshire. We build, sell, rent and manage homes in thriving communities, housing over 38,000 people.

We have a proud history of providing affordable homes for people going back over 45 years. Residents are at the heart of everything we do, and we believe **good homes make everything possible**.

<https://www.networkhomes.org.uk/about-us/>

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## Good homes make everything possible

Like all housing associations, Network's singular aim is to meet housing need. By building more of the right homes of the right tenures in the right places - which is what the white paper sets out to do - we can begin to build at a scale England needs to reverse our affordability crisis, and use some of the value created by doing so to deliver more infrastructure and more genuinely affordable homes to rent.

The paper lacks some detail in key areas. Although we see a lack of detail as an opportunity rather than a threat, we note that in designing these policies further the implementation could go one of two ways.

The proposals have potential to combine:

- higher housing need figures in areas of the worst affordability pressures,
- the use of growth zones to allow more homes to be delivered,
- the use of renewal zones to allow substantial densification of suburban areas, and
- a fixed and ungameable infrastructure levy to reduce land prices and fund more affordable housing.

These together afford a huge opportunity to vastly increase the supply of new homes and new affordable homes for low rents. **If this happens, this will be the greatest housing policy for a century.**

The proposals, if not fully considered at tested, also could combine:

- a rushed and under-resourced Plan-making process,
- an ill-devised zoning system without appropriate rules in place guaranteeing quality or placemaking, and
- the overhauling of a (for all its flaws) successful system of capturing land value and delivering affordable homes and replacing it with a development tax that either makes schemes unviable, or reallocates revenue from low rent homes towards homeownership products that are unaffordable in most of the country.

This creates a risk that the supply of homes will either fall or reduce in quality, and the supply of new genuinely affordable homes will plummet from already insufficient amounts. **If this happens, this will be the worst housing policy for a century.**

We relish the opportunity to work with government on refining the bold ideas in the paper so that the former scenario becomes reality and not the latter. Refinement does not mean watering down, and indeed in this case it certainly shouldn't. Although planning is not the sole cause of our housing crisis, England has a uniquely poor planning system, and uniquely poor housing outcomes, and it can't be reasonably concluded that the two aren't related.

Good homes make everything possible, and if we can plan for delivering good homes better, the potential to tackle the housing crisis is considerable.

In response to specific questions overleaf, we set out suggestions and proposals to maximise the positive impacts, note the challenges we need to overcome in order to deliver them, and create a planning system that meets more housing need.

## Pillar One – Planning for development

### Summary

We are almost alone among our European and OECD peers in having a planning system so fraught with uncertainty. Government is right to want to move from a discretionary system with some rules to a rules-based system with some discretion. More certainty for developers, more undeveloped land allocated for housing, and more developed land allocated for renewal and densification, will **deliver more homes**.

Government is right in thinking that housing need calculations based on a common formula, which gives a high weighting to the affordability pressures that define our housing crisis, will be a truer assessment of the homes we need to deliver nationally and locally than the current system. We need to work out a way to ensure creating Local Plans that accommodate these numbers is achievable without either reducing the numbers or moving them into areas where delivering them is less useful. But once this system is in place, it will **deliver more homes**.

The Renters' Reform Bill is an opportunity to capture better data on private rents, as these are a better measure of the kind of affordability that increased housing supply has a direct affect on, and will make the resulting housing need calculations both more accurate and more feasible. This will help us **deliver more homes**.

Locally defining areas where developments can be built without a political approval process that benefits existing local homeowners at the expense of the beneficiaries of new housing supply will be a huge step change in our system. But the implication that these areas should be confined to undeveloped land or empty sites is an unnecessary limitation. We should designate developed land, including land already used for housing, as growth zones where appropriate too. And growth zones in areas of high demand should typically have minimum densities. If most parts of most towns and cities are zoned for growth, we can **deliver more homes**.

Some areas should be protected from most or all development. But with a new designation for this purpose, there will be no need whatsoever to retain a separate Green Belt designation. In the interests of simplifying the system, the current Green Belt that is locally desirable can be rolled into protection zones at the discretion of councils and their residents. And the parts that aren't at all beautiful, accessible, biodiverse, or even green, should be zoned for growth, allowing us to **deliver more homes**.

Plans should be more standardised than they are at present, but this shouldn't amount to an over-simplification. The aim of this Pillar is to frontload the process, in terms of democracy and in terms of political intervention. The Plans will need to be comprehensive, and very well-considered. In our response to Pillar Three we propose several more content items than the paper considers around affordable homes. If the rules around development are detailed enough to take out discretion without compromising on quality, we can **deliver more homes**.

Finally, as we discuss at length in [Making land deliver](#), public bodies (including councils, Homes England, and the Greater London Authority) should be given greater powers to compulsorily purchase land at a fair market value, rather than the current system of paying "hope value" as prescribed by the 1961 Land Compensation Act. This would mean government's ambitions for growth zones could be substantially levelled up, allowing more growth zones, and allowing England to **deliver more homes**.

## Pillar One responses

1. What three words do you associate most with the planning system in England?

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2(a). Do you get involved with planning decisions in your local area?

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2(b). If no, why not?

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

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4. What are your top three priorities for planning in your local area?

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

Yes.

Plans that identify areas for growth, renewal, and protection based on geographical areas will simplify the system, improve democracy by making Plans easier to access and scrutinise, and create certainty for developers.

But delivering rules-based Plans broadly in line with the paper's proposals should not mean that they are so simple and so short they lack the level of detail required. This Pillar seeks to frontload the process by putting the information in Plans so that endless negotiation and deliberation is no longer required for individual applications. This means that Plans will need to be comprehensive. As well as Plans containing all information necessary to give developers certainty while maintaining the standards local people want, they should contain several additional items related to affordable housing and infrastructure, which we discuss more in our response to Pillar Three.

The alternative proposal to combine growth and renewal into a single zone and give permission in principle to all development conforming to the Plan's rules would be just as beneficial, or even more desirable if the blend of implementations of policies in Pillars One and Two result in renewal zones tending to only get a presumption in favour of development rather than permission in principle. As many applications as possible should be allowed permission in principle so long as they conform to local rules.

The alternative proposal to limit automatic permission in principle to growth zones would be a huge missed opportunity. If growth zones would tend to be limited to sites that have prescriptive masterplans or to sites that haven't already been developed, as the paper implies, then this alternative proposal would undo much of the good that proposals in Pillar One do to build the homes we need.

We will need to ensure that moving democracy upstream doesn't simply mean removing it from the process. Land use is inherently political because of its externalities, and so we must ensure people get a genuine say over the types of developments that happen around them, although we are clear that

in the context of a severe housing shortage, local people should not be able to stop development happening at all.

Whilst these proposals have potential to speed up the Plan-making process, we believe there should be longer, more meaningful and iterative engagement with local communities, far in excess of the six-week consultation period referenced in the paper.

Finally, we note that growth zones could be more effective - and especially effective at delivering affordable homes - if land could be assembled cheaply and sold to developers of affordable homes. We urge the government to consider reforming Compulsory Purchase Orders, so that land assembly can more easily support its growth ambition.

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

Yes.

Although local people and local government should retain a say over the sorts of developments that are built around them, in an optimal planning system, central government should act as a “referee,” and local planning authorities should be “players” bound by its rules. The current system of local government writing its own development management policies means that local authorities are both referees and players, which creates uncertainty, some arbitrary post-code lotteries, and increases the scope for councils to deter development.

Setting out general development management policies nationally isn’t anti-localism, it’s just the right responsibilities and powers sitting at the right levels. The success of the NPPF shows consolidation of rules into a single, national rulebook, which is used by local authorities as they make rules in their own area, shows the strengths of this model, and it should be embodied further by future reforms.

The core proposal is far superior to the two alternatives proposals suggested, which would risk replicating the worst elements of zoning in the United States, where planning authorities as referees and players of their own Plans write them to make it harder to build homes.

**7(a). Do you agree with our proposals to replace existing legal and policy tests for Local Plans with a consolidated test of “sustainable development”, which would include consideration of environmental impact?**

Yes.

If the content of Plans are altered significantly as government intends, tests ensuring their compliance will need to change. A key test that will be necessary is whether the Plans actually plan for the homes required by their centrally calculated housing need. It’s possible this will not be as simple as it sounds, because a renewal zone that already includes dwellings, or otherwise has fragmented land ownership, won’t deliver anywhere near all the homes that the Plan allows for, and so to meet the required need the Plan will need to account for this.

In terms of sustainability, we recognise the importance of this, but as discussed in Pillar Two, the most aspects of sustainability are global issues rather than local issues.

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

The political furore around a “mutant algorithm” being behind the assessment of local housing need shows that it will be difficult to devise housing need figures which reflect need, are objective, and are politically acceptable. Something is likely to give; it shouldn’t be the government’s ambition of building the 300,000 homes a year England needs. Instead there could be an opportunity for local planning authorities to “trade” their numbers into surrounding areas, as part of the Plan-making process, or maybe even before that, as part of this iterative consultation process.

For areas with Metropolitan Mayors, these institutions should be able to reallocate need within their regions, just as the Mayor of London broadly does at present. But we need a solution for authorities without Mayors, and for the reallocation of need between areas with Mayors and areas without.

To this end we require a way for housing need requirements to be traded between willing local authorities that are connected by transport links, and a centrally-led plan to create new settlements close to areas people want to live, so that housing need numbers can be transferred. We discuss (2) in our answer to 9(c). We propose an answer to (1) here, although we recognise there may be other ways to accomplish this.

Local authorities that consider their housing need figure to be too high to deliver, politically or practically, have a number of assets that other neighbouring (or otherwise connected) authorities may want to “purchase” in exchange for a reallocating of some of their housing need amounts:

- Revenues from their infrastructure levy
- Revenues from existing property taxes collected locally (business rates and council tax), either as an absolute amount or a proportion of the revenue they receive
- Unspent Right to Buy receipts if they are unable or unwilling to recycle them locally
- The bilaterally agreed possibility to allow households on their housing lists to be allowed to bid for new social housing voids in one another’s areas
- The bilaterally agreed possibility that they include one another’s area in determining whether homeless households or other applicants to their housing list meet “local area connection” rules for each area if they live in either of the two authority areas
- A commitment to use public council- or regional government-owned land to build a higher proportion of affordable housing to help households on both authorities’ housing lists (which would be strengthened by increased Compulsory Purchase Order powers).

In the period between housing need figures being provisionally allocated and the new regime coming into effect, councils should be given a window in which they can negotiate trading the need figures assigned to them using any of the above, so that mutually beneficial arrangements can be found without a reduction in the overall numbers.

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

Yes.

We need to build 300,000 homes a year, and they must be concentrated in the areas of worst affordability pressures. Centralised calculation of housing requirements is a better way to do this than targets set locally, because there’s no guarantee local targets would add up to the homes we need.

In the new regime, local councils should ensure that enough land is zoned for growth or renewal, and the development there is allowed to be dense enough, that their housing need can be met. This will mean that the Plan-making process, including the consultation, is about *where* and *what* rather than *whether* or *how many*.

However, councils can only plan for homes, and not (in the main) deliver them. So these ought not be delivery targets, and councils should not be penalised in any way for developers' slow build-out or economic shocks. This will mean that the numbers will need to be high enough to account for lapse rates, incorporating contingency, and that there will need to be expert and impartial checks on councils to ensure their Plans don't fall short.

**8(b). Do you agree that affordability and the extent of existing urban areas are appropriate indicators of the quantity of development to be accommodated?**

Yes.

No formula can be perfect, but these two factors - and most especially affordability - are clearly important when determining what share of England's 300,000 homes each year should be built where.

Affordability needs to be weighted more heavily in the formula decided on than in the current standard method. A key cause of the housing crisis is the inability of supply locally to respond to changes in demand locally. This means that increasing demand makes housing costs higher, rather than making the supply of housing higher.

This weighting of affordability - which will show that need in cities, and particularly in London, is higher than elsewhere - is also an essential part of the levelling up agenda. By building more homes in the places where demand is highest, more people will be able to move to these areas. This will increase exports from cities and towns with weaker economies and less housing demand, creating new jobs which are useful for improving the struggling economies that need levelling up.

Affordability of market rents is a more appropriate measure of affordability for this purpose than house prices. House prices include the price of housing "assets" as well as the housing "service," so they have more determinants than rents, notably interest rates and policies by lenders affecting mortgage availability. Although cheaper credit to an extent should lead to a recognised need for more homes, as people will be able to buy more space, market rents are a truer picture of the sort of affordability new supply has a direct effect on (and will also make housing need figures more deliverable in areas of very high demand and little land without high existing use values, like inner London).

Government should make sure the Renters' Reform Bill includes mechanisms to capture more accurate local data on market rents, for example by requiring landlords to report on the rent charged to their deposit protection scheme and requiring these schemes to report local averages of these to government. A national register of landlords, as proposed by Generation Rent and others, could also be used to achieve this.

Furthermore, income is probably a better measure than earnings, as it is a truer picture of what all local people - including the self employed, those out of work, or those working part time - can afford.

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

Yes.

Making housebuilding a matter of conforming to rules rather than navigating a political approval process is essential to delivering the homes we need.



There will significant work in the Plan-making process to ensure that there are the right rules in place for growth zones to ensure quality and local desirability while not compromising on the number of homes that need to be delivered. But once in place, this will make building easier and quicker.

But growth zones should not be limited to undeveloped land and some brownfield sites, and shouldn't require a prescriptive council-led masterplan (as implied in Pillar Two of the paper). A huge untapped potential exists in the suburbs of our cities and towns to redevelop and densify the expanse of two storey semi-detached housing there. With the local consent that comes from the consultation phase of making the Plans, these should be growth zones too. The huge uplift in land value associated with upzoning these areas to be far more dense would mean that many of the people living there would agree to this.

In order to maximise the impact of these proposals, it should be acknowledged that most areas in most cities should be zoned for growth, and should receive automatic permission if they conform to the rules set out in the Local Plan. It's not fully clear whether a renewal zone combined with the "fast-track for beauty" proposed in Pillar Two amounts to exactly the same thing as a growth zone that doesn't need a masterplan to accompany it. But however these zones are eventually defined and labelled, most areas in most cities should be possible to substantially densify without local authority discretion.

It is the *where* and *how* of zones with automatic permission in principle that should be debated in the Plan-making stage, improving democracy. If the rules are comprehensive enough, and are subjected to democratic consultation, these areas shouldn't be subjected to a further political approval process.

Furthermore, we note that reforming Compulsory Purchase Orders so that public bodies could acquire land more cheaply would allow an "infrastructure first" approach to some growth zones, which has potential to create better planes and unlock far more land for housing.

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

Yes.

The renewal zone is a necessary middle-ground between growth and protection, but there should not be a presumption that developed land in high demand areas is generally zoned for renewal rather than growth (and it should almost never be zoned for protection). Furthermore, *after* a Plan in the new regime is introduced, part or all of each renewal zone should have a right to upzone themselves into growth zones if they choose to, as has been proposed by London Yimby, the Adam Smith Institute, and others.

Protection zones created through the Plan-making process, and so open to local scrutiny and review, remove any argument for maintaining a separate green belt designation. Councils should be free to decide locally whether their current green belt areas are moved to protection zones or growth/renewal zones. In line with preserving the importance of the protection zone defined in the paper, the green belt designation should be abolished.

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

No.

We agree with the reasoning behind this proposal, but new settlements should form a cornerstone of the set of policies the white paper evolves into, and so should have a regime unto themselves. Such a regime will be an essential tool for redistributing housing need figures away from local authorities that will find it hard to plan for their targets and into new towns within reach of existing labour markets and amenities.

Government should undertake an exercise after the initial allocation of housing need figures but prior to their being confirmed that takes account of councils' or Mayors' evidenced reasoning for reallocating them to new towns. Then government should determine where new settlements should be developed and how many homes they ought to have (at minimum). Some of the Metropolitan Green Belt is a prime location for these.

To outsource the resources and energy that would go into this sort of strategic, cross-boundary planning, government could create a competition open to planners, academics, and other expert stakeholders to propose where and how these settlements should be developed. It should also be prepared to compulsorily purchase land, via additional funding to the Homes England Land Assembly Fund, in order to buy the parcels of land necessary to make submissions become reality.

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

Yes.

However, we are clear that any increase in workload for local councils - which faster decision-making will likely amount to, even given the paper's attempts to move more work upstream - must absolutely come with the funding required for this to actually happen. Faster targets without the resources to make decisions faster is not a solution.

But this also depends on the design of the eventual policies. We note that if the proposals are implemented as successfully as they could be, the resource requirements for councils will be heavily frontloaded to the Plan-making stage, and therefore decision-making later will be reduced.

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

Yes.

However, as discussed elsewhere in this response, more standardisation needs to be balanced with giving local people and local councils a genuine say over what and where and how things are built in their area, subject to planning adequately for their housing need. This means Plans will need to be comprehensive and detailed.

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

No.

The most desirable and beneficial concept in this Pillar of the paper is that democracy and workload are frontloaded, creating less uncertainty and less politicised delays later. This means that the Plan-making process needs to be done right. Given the increased role of consultation at this stage, and the upfront resource costs of writing a Plan to a new template, means 30 months is unrealistic.

We agree that there should be a statutory timescale, although it likely should need more contingencies and flexes than a fixed duration. How long it should be will depend on the specifics of what Local Plans should include and how consultation processes are to be completed.

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

Yes, albeit with their remit adapted to fit into the new system.

**13(b). How can the neighbourhood planning process be developed to meet our objectives, such as in the use of digital tools and reflecting community preferences about design?**

During the Plan-making process, existing Neighbourhood Planning groups can support councils with the consultation process by responding collectively. In these instances, these groups could be given a greater say on the design guidelines in their neighbourhood, subject to our reservations about design codes in our responses to Pillar Two.

After the Plan is completed, Neighbourhood Planning groups should be allowed to upzone their area from renewal to growth, or upzone the rules about their area so it can deliver more amenities, homes, or other development.

**14. Do you agree there should be a stronger emphasis on the build out of developments? And if so, what further measures would you support?**

Yes.

As research earlier this year by Centre for Cities (also called *Planning for the future*) noted, our current system is itself a key cause of slow build out rates - and the much-disputed practice of landbanking - because the highly rationed supply of development permits means that developers need a tangible and sizable pipeline to protect against the risk some of their schemes (sometimes having gone through years of various stages of planning) could stall or even be rejected at the last moment. As a non-profit developer of many hundreds of homes each year, Network recognises this feature of the current system.

However, that doesn't mean that government shouldn't do more to ensure build out rates improve further once the new regime takes effect.

As government's Independent Review of Build Out showed, diversity of tenure on large sites is a huge vehicle for reducing the way absorption rates constrain delivery. We discuss in our response to Pillar Three how best to implement the infrastructure levy in a way to support this.

These changes also give government an opportunity to give councils and public bodies (perhaps most notably Homes England and the Greater London Authority) powers to compulsorily purchase land. Current rules deriving from the 1961 Land Compensation Act around hope value make it too difficult and too expensive to buy land for new development projects. We need to redefine "market value" so that public bodies can buy parcels of land that private developers wouldn't, either because of fragmented ownership or stubborn landowners intent on holding out for the housing crisis to worsen before selling. This land could then be sold at the same rates to developers like housing associations who could deliver up to 100% affordable homes on the sites, totally unconstrained by absorption rates.

Councils could also be given the power to levy additional land taxes in growth zones in some instances. If an area is zoned for growth but a landowner doesn't want to sell, taxing them for their continued standing in the way of building the homes we need would incentivise them to sell, and developers (private and social) could buy the land cheaply, as the tax would be priced in. If they bought knowing the land is subjected to a tax, and the development is still viable on that basis, they would have a clear incentive to build out quickly.

## Pillar Two – Planning for beautiful and sustainable places

### Summary

Design is important, but prescriptive codes that stifle innovation and increase costs are not helpful. In order to allow dynamic place-making, any national design code should understand that beauty is subjective. There should be a role for beauty standards, but they should not unnecessarily slow down housing delivery, nor should they be used as a mechanism by those who enjoy housing security to frustrate the opportunity for those who do not currently benefit from it from doing so. Furthermore, to reflect local preferences and circumstances, any standards that there are should be determined locally, not nationally, although the local codes should sit within a national framework of guidance.

At the national level the emphasis should instead be on quality - these outcomes are easier to measure and better aligned with the Network's and government's shared aim of meeting housing need.

Government is right that environmental sustainability is important. Climate change is real and the need to get to net-zero emissions is real. These are not local issues, or even national issues, but global issues. National government should bring all of England up to the level that grant-funded schemes in London already need to adhere to on environmental sustainability.

Government should aim for a national target of 100% reduction in carbon emissions from new build homes in order to meet net zero by 2050. We recommend adopting a fabric first approach with regards to new build homes and increasing the energy efficiency target within Building Regulations to 35% of CO2 reduction, as already required by G15 members in London.

## Pillar Two responses

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

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

These reforms provide a key opportunity for the housing sector to inform a coherent response to long-standing concerns around the quality of our homes, as well as the need to create sustainable places and communities. On this regard, the Bartlett School of Planning has recently published their findings on the 2020 Housing Design Audit for England, reporting that – although there has been a small improvement in design quality since the last audits were conducted in 2007 – the design of new housing environments in England remains mostly “mediocre” or “poor.” Out of 142 large-scale projects audited across England, three quarters of sites did not meet the high-quality design standard.

In particular, environmental performance was found to be a major source of concern, with a significant number of schemes still falling below the basic minimum energy efficiency requirements set out in legislation. The report adds that “This, combined with the known and persistent performance gap between ‘designed’ and ‘as built’ energy performance in new homes, and the failure to deliver a green and bio-diverse landscape in many projects, amounts to a sub-standard response to the environmental challenges we face.”

These figures suggest significant effort is required in order to ensure environmental and social sustainability considerations are successfully factored in at the planning stage. We consider the two components separately in the paragraphs that follow.

#### *Environmental sustainability*

The UK has committed to net-zero carbon by 2050 and addressing the energy efficiency of our homes will be essential in order to meet this target. The Committee on Climate Change has found that energy usage in homes is currently on the rise, accounting for 14% of total UK emissions, while emission reductions from the UK’s 29 million homes has stalled.

In relation to how lower-performing homes affects people’s health and well-being, from the introduction of the Government’s Fuel Poverty Strategy in 2014/15 to 2019, the number of households in fuel poverty in England increased by 210,000 to 2.55 million. And crucially, the impacts of substandard housing on public health is costing the NHS in England £1.4 billion a year.

In our previous response to the consultation on Future Homes Standard we argued that the Government should aim for a national target of 100% reduction in carbon emissions from new build homes in order to meet net zero by 2050. We recommended adopting a fabric first approach with regards to new build homes and increasing the energy efficiency target within Building Regulations to 35% of CO2 reduction, as already required by grant-funded members in London.

#### *Sustainable place-making*

Sustainability should not be solely intended as an improvement in environmental performance, but also as our ability to create healthy places and communities. A renewed approach to design that takes into account considerations on healthy neighbourhoods should be incorporated into forthcoming Local Plans via their design codes.

Local Plans should provide clear rules that deliver successful mixed-use developments, which include basic commercial facilities, and the relationship between high-density schemes and upgraded transport infrastructure.

Within densely populated urban areas like London, Metropolitan Mayors should retain the ability to plan for upgrades in transport infrastructure, in conjunction with the ability to aggregate total housing numbers and redistribute across different local authorities.

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

Yes.

Design codes are a key part of ensuring democracy is improved, giving local people a genuine say over styles of development that are built near them.

But bringing in highly prescriptive design codes would be a barrier to innovation, and would prevent architects and developers from meeting complex local demands. Particularly in urban areas that are growing quickly, the need for developing at high density can necessitate a dynamic approach to place-making. There is a risk design codes could also be used as a way to make development more difficult, which should not be permitted.

The national design code should focus on quality and sustainability, *not* beauty. Beauty is subjective and no national code should prescribe it. A national design code may be useful as a default design code in cases where there isn't a local one, but we see no reason why every planning authority shouldn't have a design code (or codes) as part of its Local Plan or Neighbourhood Plans.

**18. Do you agree that we should establish a new body to support design coding and building better places, and that each authority should have a chief officer for design and place-making?**

Yes.

A key responsibility of the national body should be overseeing the creation of local design codes to ensure they aren't made in bad faith in order to deter development.

There is no objective standard for beauty and no national code should prescribe it. Local rules on how developments should look make sense so long as they don't impart significant additional costs on developers. Another function of the national body should be to provide additional resources to local authorities to help them to create design codes and other local rules in a way that local people want, but without being so prescriptive they completely deny any change to the character of an area, which should be allowed to change over time.

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

No.

Homes England's focus should be on supporting the delivery of the 300,000 homes a year we need in the areas we need them.

The national body discussed in our response to question 18 could become a part of Homes England, but even in this case, the primary functions should be supporting locally-led design codes so that they don't deter development and aren't overly prescriptive. Both of these aims are in keeping with

delivering more homes - what is good design should be a local matter and determined by local democracy.

Furthermore, reforming Compulsory Purchase Orders so that Homes England could assemble land more cheaply would improve its capacity to unlock the building of more homes - and especially affordable homes. As these homes would be built on the basis of the design codes set out locally, which should ensure quality of design, this would accomplish this proposed strategic objective without even needing to set it.

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

Partially.

Developments in growth zones should *already* be fast-tracked, and anything in the process that involves anything except checking the application conforms to established rules will slow the process down and be contrary to government's aims. But they needn't require a full and prescriptive masterplan as proposed - they should just have rules about what can be built, how dense it must be (at minimum) and can be (at maximum). To the extent that this is the "fast-track to beauty" proposed in growth zones, we agree.

In renewal zones, the proposal in Pillar One is that there will be a presumption in favour of development common to all proposals that conform to a set of published rules. If there is another, more detailed set of rules that will give applications in renewal zones an "upgrade" to permission in principle, this provides a good alternative route to faster building. But the rules that unlock this fast-tracked route needn't necessarily be about beauty per se - if the council deems it appropriate they could just be further rules on density, quality, or other elements. And if they are about beauty, this shouldn't be too prescriptive either, as per our answer to question 18.

It's vitally important that all thresholds and rules in either zone are defined clearly so that there is no element of discretion and only the most minimal subjective interpretation necessary for local authorities. We shouldn't allow the determination of whether a proposal meets or doesn't meet the fast-track threshold to be a potential source of delays.

## Pillar Three – Infrastructure and connected places

### Summary

We set out plans in [Making land deliver](#) and [Planning Anew](#) for how s106 could be replaced by a simpler tax that could deliver on-site affordable housing, and we are excited to see government considering delivering on this.

There are clear benefits of a fixed levy system over a negotiation based system (although some of these depend on the specific design rather than the concept):

There are clear benefits of a fixed levy system over a viability and negotiation based system (although some of these depend on the specific design rather than the concept):

- It's simpler and provides more certainty to developers and councils
- It doesn't require different actors to agree with each other, creating delays
- It will bring down land prices
- Because in the current system CIL can't be used for affordable homes, there's potential to deliver a lot more this way, especially in areas like London which already have well-functioning transport and plenty of amenities.

However, there are some drawbacks which we need to mitigate or overcome:

- It risks making sites unviable if it's set too high or isn't allowed to account for varying existing use values.
- It risks delivering insufficient affordable housing and infrastructure if it's set too low
- As proposed in the paper, it will not deliver on-site affordable housing, as achieved sales values will not happen until the building has no homes left to use for affordable housing.
- In areas where almost all existing use values are high, like London, there is a particular challenge to ensure more housing can be delivered - it costs landowners nothing to *not* sell/redevelop, whereas a new levy on GDV might be a cost they're not willing to bear.
- Moving to any new system is inherently risky, and there is always the possibility even with good intentions, it won't deliver as intended.

We propose some ways forward to make it the best it can be:

- It should be set by local authorities, including the possibility of setting more than one rate within the area - but the rates should not be allowed to vary within a council area by end use class, only by geography or pre-existing site characteristics.
- In cases of developments containing dwellings, rather than being levied on achieved sales values, the tax should be levied on an amount developers note at planning application stage, with ungameable incentives for paying exactly the right amount in tax. We specify how this system works in our detailed responses overleaf.
- There should be a **default method** process, which is suitable for any builder, and can deliver either on-site or off-site affordable housing at the council's discretion.
- There should also be a parallel **combined application method**, suitable for either housing associations or other Registered Providers, or a housing association in partnership with a private developer, who want to provide on-site affordable housing. For these applications, housing associations will get far greater involvement in the design of the affordable homes than in our current system.



## Pillar Three responses

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

-

### **22(a). Should the Government replace the Community Infrastructure Levy and Section 106 planning obligations with a new consolidated Infrastructure Levy, which is charged as a fixed proportion of development value above a set threshold?**

Only if the policy is designed in a way that ensures government will deliver on its aim to provide at least as many genuinely affordable homes through developer contributions as it does currently.

Section 106 and CIL are collectively the best mechanism for capturing land value England has had in living memory, and are contributing more to the affordable housing supply than ever before. But this doesn't mean they can't be improved upon - it merely highlights the scale of the challenge in designing and implementing a replacement that can be guaranteed to be better.

The ideal (and clearly impossible) mechanism for capturing land value and developer profits in order to fund affordable housing and infrastructure would be one that levies exactly the right amount on every site for the scheme to still be viable while also being transparent, certain, and totally unnegotiable. Our current system attempts to do the former at the expense of the latter. But the result is affordable housing contributions are frequently argued down to levels far below what would be possible in a system where 1) it would be developers' profits that need to flex downwards if prices change before completion, rather than affordable housing, and 2) the certainty created by a predetermined, fixed cost is priced into the land market, making land cheaper.

The best way of moving towards this ideal while retaining the best elements of s106 (namely that it takes account of local viability constraints) would be for councils to set local levies that balance local existing use values and the local need for affordable housing and infrastructure as part of their Plan-making process. If the council so determines, this could even mean more than one rate within the same local authority area - for example a brownfield rate and a greenfield rate, or a growth zone rate and a renewal zone rate, or even more localised rates based on identified areas.

Because things change between the time when a developer applying for permission and the homes are completed (house prices, unforeseen construction issues, and more), something will always need to flex. In the current system, it's affordable housing. It should be developers' profits, but in a way that ensures the scheme is still viable.

The key policy challenge to address is ensuring government's aim to deliver at least as much affordable housing is genuinely realised in the new system. It is imperative that the system is designed in a way that will guarantee this. In our answers below we suggest a system that we are confident would do this.

We expand on the policy advocated by Jamie Ratcliff and Reuben Young in [Making land deliver](#), a paper for Network Homes, and [Planning Anew](#), an essay collection published by Policy Exchange as part of the project that formed the blueprint for the white paper. In short, the levy should be

- set and collected locally (including the option for planning authorities to set multiple rates),
- paid on completion or occupation not as a proportion of achieved sales value, but as a proportion of a predicted gross development value submitted as part of the planning

application, with incentives for developers to not inflate or deflate this value included in the policy

- able to deliver both “right to purchase” and in-kind contributions in a way that doesn’t involve negotiation with councils, and
- partially ringfenced for affordable housing.

But in order to be absolutely certain that this happens, and protect against the reality that the outcomes of any new system will be uncertain until they happen, government should legislate that any fall in the number of affordable homes delivered by developer contributions result in a one for one increase in the following Affordable Homes Programme.

Finally, we note in the paper’s proposals a “small, fixed value for land” is proposed to form part of the levy-free threshold. This is a mistake; land costs are exactly what this policy should reduce, and assuming any part of them within the levy is contrary to this aim.

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

Locally.

Councils should set the rate, or rates, as part of their Plan-making process. The rate should account for local viability constraints and the local need for infrastructure and affordable housing. As part of the Plan, councils should set out the tenure mix of affordable housing and the infrastructure projects they will spend the rate on. These decisions should all be consulted on and subject to genuine change - subject to the housing need that must be planned for - so that the democratic element of our current system is adequately maintained as it is moved upstream.

This will need to be done in a way that guarantees at least as much land value is captured for infrastructure, and at least as much land value is captured specifically for affordable housing, as it does at present.

Furthermore, in order to deliver affordable homes on site, it is clear a levy on achieved sales values will not be able to achieve this, because by the time they are achieved, there are no vacant homes left on the site.

In our answer to 24(b) we propose an approach comprising two parallel application processes which will deliver on-site affordable housing in a way that eliminates the problems with the current system while keeping the benefits.

**22(c). Should the Infrastructure Levy aim to capture the same amount of value overall, or more value, to support greater investment in infrastructure, affordable housing and local communities?**

More value.

There are more than one million households on housing lists waiting for social housing, and 8.4 million individuals living in unaffordable, overcrowded, insecure, or wholly unsuitable accommodation. Overhauling the way developers contribute to infrastructure affords an opportunity to capture more value and deliver more social housing for those in need.

Land prices can increase by incredible amounts when they gain planning permission, and developers’ profits show that they can clearly contribute more. And currently commercial developments contribute less, and permitted development rights don’t contribute at all. It is necessary and achievable for the paper’s proposals to be implemented in a way that takes more unearned, unneeded

wealth from landowners, and more profits from developers, and give them in the form of housing outcomes and reduced rents to people who need them.

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

Yes.

But councils shouldn't be expected to take on the risk associated with borrowing against a development that may lapse.

Furthermore, there is a risk councils' inability or lack of desire to borrow money to build infrastructure that would unlock new sites would stall the process, especially in the case of longer term infrastructure projects that may require the pooling of several schemes' levy revenues to deliver, but that are essential to delivering the sites.

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

Yes.

There should be no exemptions for anything except schemes of 100% affordable housing - and if our proposals in our answer to 24(b) is adopted, even this exemption won't be necessary. Commercial developments, small sites, and even extensions to existing homes should all pay the applicable rate in the Plan, and these rates shouldn't discriminate by use class.

Including more types of building in the levy regime has the potential to deliver significantly more revenue to fund infrastructure and affordable housing.

**24(a). Do you agree that we should aim to secure at least the same amount of affordable housing under the Infrastructure Levy, and as much on-site affordable provision, as at present?**

Yes.

But we are clear that this should not be an aim, it should be a guarantee. The policy needs to be designed in a way that makes this happen. This could be done by establishing a robust affordable housing need formula centrally, or regionally, that allocates either a number of affordable homes (specifying the minimum level of affordability required in order to be counted) or an amount in effective subsidy versus the market house price to be allocated across tenures during the Plan-making process.

If a centrally prescribed formula isn't possible, or is politically unachievable (alongside centrally prescribed housing need figures that already face considerable opposition), we suggest the following system to ensure affordable homes are delivered:

- Central government sets out a number of local variables that ought to factor into how many submarket homes a council should deliver, and a framework for how to consider these in a local context.
- As part of their Plan-making process, planning authorities calculate the proportion of their overall housing need that should be submarket rented homes, using the national variables and framework.

- Authorities then calculate the proportion of their levy revenues that would be necessary to achieve this proportion, and that proportion is ringfenced (although some “defences” for spending it on other projects could be permitted).

This will frontload more to the Plan-making process, and increase democracy via local accountability.

Although we believe, taken together, our responses to this Pillar will result in *more* affordable homes, to protect against the risk that this doesn’t happen, government should legislate that any fall in the number of affordable homes delivered by developer contributions result in a one for one increase in the following Affordable Homes Programme.

**24(b). Should affordable housing be secured as in-kind payment towards the Infrastructure Levy, or as a ‘right to purchase’ at discounted rates for local authorities?**

The new regime should allow for both.

In-kind contributions are generally preferable, but the key flaw in the current system is that these sorts of contributions are inherently open to negotiation and revision. The beauty of a levy is that revenue can be raised and affordable housing can be delivered without negotiation and without revision.

We propose the following two concurrent methods as a way to get the best of both worlds, for any development that includes new dwellings. Neither the “right to purchase” system, which we call the “default method,” nor the in-kind system, which we call the “combined application method,” involves any deliberation with local councils on specific developments - not even a commonly accepted valuation of the scheme. Everything is frontloaded to the Plan-making stage, which local authorities retain a considerable degree of control over, and therefore local people retain a genuine voice in the process, exactly in keeping with the ethos of the paper.

The **default method**, which is appropriate to any type of development that includes new dwellings, is a “right to purchase” system as follows:

- As part of their planning application, the developer submits an expectation of the gross development value.
- They pay the relevant levy to the council, on completion or occupation, on this expected GDV, *not* the achieved sales value. This means that in effect the developer chooses the amount of tax they pay.
- The council is free to use none, some, all, or even more than the amount received, to buy homes in the development for use as affordable housing.
- The price the council pays is not determined by the market price, or by the tenure they’d like the homes to be converted to, or any other factor than the expected GDV and the resulting levy payment:
  - o The expected GDV is divided by the homes in the block. This could be done by units with a bedroom weighting, or by square footage, or some other quantifiable measure.
  - o Even for mixed use developments, the square footage option could work - the council could conceivably want to use part of the development for some amenity or service the area would benefit from.
  - o This formula - the GDV divided by some appropriate weighting of the space in the development - arrives at the price the council pays for the homes.
  - o For example, in a block of ten identical homes with an expected GDV of £2.5m, the developer would pay the levy on £2.5m regardless of the achieved sales price, and the

council would have first refusal on paying £250,000 per home regardless of the actual market price.

- If the council doesn't want to own or manage the homes themselves, they could sell them to a housing association partner with the tenure specified ahead of the sale, or retain ownership and pay an agency or partner to manage the homes.
- The developer has a clear incentive to value the development correctly. If they submit an artificially low GDV, the council could use other funds to buy some (or even all) the homes in the scheme for use as affordable housing at submarket rates, and the developer loses profit. If they artificially inflate the GDP, they will pay more in tax than necessary and lose profit, and the council will likely decide not to buy any homes, but to spend the money on affordable housing or other infrastructure elsewhere.
- However, if they do accidentally over- or under-predict the GDV, the scheme is still viable, because by definition the GDV they predicted - and the resulting tax owed as a proportion of it - was viable from the outset, otherwise they wouldn't have submitted the application.
  - If they overpaid in tax, that's okay, because the scheme was viable on the basis of the tax they knew they would pay from the outset.
  - If they underpay in tax but the council buys the entire development for less than it's worth, that's okay, because they'll receive the sales prices they thought they would at the outset, and they assessed that the scheme would be viable on that basis.

This way of implementing government's infrastructure levy has several key benefits. Nowhere in the process is any negotiation of any kind between local authorities and developers. This means no reduction in captured land value as a result of an oligopoly of developers employing teams of people to reduce contributions. It also means no delays while both parties are in communication.

We believe this approach embodies the aims of the paper, and is a perfect complement to proposals in Pillar One to create growth zones with automatic outline consent. More housing will be delivered more quickly with a higher proportion of affordable housing.

However, as noted, in-kind contributions have many benefits that this default method lacks: namely the early involvement of housing associations or other parties that would eventually own or manage the on-site affordable homes. So with this default "right to purchase" contingency in place, we suggest the following as an additional planning track:

The **combined application method**, which is appropriate to housing associations delivering land-led schemes, or partnerships between housing association and private developers, is an in-kind system as follows:

Local Plans should include a list of affordable tenure types they want to deliver, and a cash amount that one unit at each tenure type offsets against any levy amount developers submitting this type of application will pay: an "offset-value." As this value will change over time, the Plan should also set out a sensible way to regularly recalculate it which is transparent so that actors know what factors it depends on and when new data is released that could change it.

This offset-value should be something approximating the difference between the market sale price and the net present value of the revenue stream associated with the affordable tenure, but it could be allowed to vary a little from that depending on a council's specific aspirations about the tenure mix it wants to deliver.

- A Registered Provider of Social Housing (which may be a housing association or a for-profit provider) that wants to build a scheme with on-site affordable housing, or a private developer

in a partnership with a housing association or council who together want to build a scheme with on-site affordable housing, submit(s) a planning application for their scheme.

- Their application specifies an expectation of their GDV and the amount of each affordable tenure included in the application. The total offset-value of the affordable homes in the scheme must be at least equal to the levy due on the GDV specified.
- When the scheme is completed, the developer(s) pay no levy to the council.
- However, just like in the default method, the local council is *still* able to buy the market homes in the scheme, using levy payments taken on other sites or using other funds, at a price determined by the GDV submitted at planning application stage.
- They are able to use these homes for affordable housing, or sell them to a housing association partner with the tenure specified, as in the default method. But homes bought from schemes that used the combined application method are not used for affordable homes, but are instead sold on the open market in the same way as the private developer would sell them.
- If the expected GDV was low and the council bought homes at a submarket value, they would sell them for a profit to reinvest into their levy funds elsewhere.

This system has all the same benefits as the default method, but also has more: not only is typically more affordable housing delivered on-site, it's guaranteed to be suitable for the tenures it's intended for, and there is a chance that the council takes makes profit over and above the levy amount to reinvest elsewhere.

The advantage of this method to social housing providers is apparent (whether they're applying alone or with a private developer partner), but this approach will also be highly attractive to private developers. The agreement entered into between housing associations and developers could involve the housing association using grant funding to pay the developer in advance for its share, giving the developer early cash flow and reducing the developer's reliance on lending. This will allow the developer to build bigger, opening up viability on more sites.

It also presents a chance to further de-risk relative to the default method, because the partnership agreement entered into with the housing association could include any manner of cost sharing, risk sharing, or revenue sharing measures that might benefit the developer for that site at that time. And the added benefit of potential additional revenue for the council will incentive councils to think about how they can incentivise this method locally.

Although the combined application method delivers better outcomes, the default option should be kept, as (in growth zones and beauty-tracked renewal zones at least) it doesn't require agreement between any two actors in the planning process, which will inevitably speed up the delivery of the 300,000 homes a year England needs. The combined application method still doesn't require agreement with councils, but it relies on a housing association or other social housing developer being able to buy the land, or a housing association being able to reach an agreement with a developer on what should be delivered and what terms are appropriate.

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

Our proposed methods above mean there is provision for in-kind delivery but no risk of local authorities overpaying for anything.

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

The in-kind method we suggest ensures affordable housing quality far more than the current system, as housing associations or councils will submit the planning application jointly with their developer partners.

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

Yes.

Giving councils a greater degree of control will empower them to deliver the infrastructure necessary locally.

However, the revenues from the levy should always be spent on infrastructure, including affordable housing, and enough of them should be spent on affordable housing to meet the particular need for this kind of infrastructure nationally.

The suggestion in the paper to allow reductions in council tax to be funded via levy revenues is utterly misguided in the context of a severe housing crisis caused by a housing (and affordable housing) shortage in areas of high demand.

Local authorities should have five years to spend revenues, or to allocate spending to tangible, timebound infrastructure projects in future, for example where revenues taken from several schemes are necessary to deliver a big-ticket infrastructure project. This could be extended to eight years in exceptional cases approved by the relevant Mayor, or by the Secretary of State in cases where there is no applicable Mayor.

If the funds are unspent or unallocated by that deadline, they should be given over to the relevant Mayor, or in cases where there is no Mayor, given to Homes England to support land assembly (hopefully helped further by reforms to the 1961 Land Compensation Act) so that more housing and more affordable housing can be delivered nationally.

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

Yes.

There should be a ringfenced fund in line with what we suggest in our response to 24(a).

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