

MAYOR OF LONDON

Planning white paper – Planning for the Future Detailed Response to Consultation Questions

Introduction		
1. What three words do you associate most with the planning system in England?		
Vital (for) good growth		
2. Do you get involved with planning decisions in your local area?		
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]		
<p>Yes, the Mayor of London has three key planning powers, all of which add considerable value:</p> <ul style="list-style-type: none"> • The preparation and implementation of the London Plan, the Spatial Development Strategy for London • The assessment of referable planning applications • The assessment of Local and Neighbourhood Plans general conformity with the London Plan <p>Detailed examples of how the Mayor shapes development in London to deliver good growth are set out in the answers below.</p>		
3. Our proposals will make it much easier to access plans and contribute your views to planning decisions. How would you like to find out about plans and planning proposals in the future? [Social media / Online news / Newspaper / By post / Other – please specify]		
<p>For the Mayor the efficient and user-friendly communication on planning matters is a high priority, and he is driving innovation in this area: He already communicates through a number of different mediums and channels including press releases, newsletters, Linked-In, Twitter, Facebook, etc. He has recently also launched a new online platform for consulting on planning policy, which is linked to social media. As well as promoting commenting on policy documents, it has a range of functionalities such as discussion forums and quick polls. This provides varied options for engagement, which may appeal to different people in different circumstances, the purpose of which is to enable a much greater reach to a more diverse audience and the GLA is continuing to develop further tools and practices to ensure effective engagement with all Londoners.</p>		

MAYOR OF LONDON

To help residents understand the Mayor's role in the planning process, and increase transparency of his decisions, he has also recently launched a new online tool for searching and commenting on planning applications that have been referred to him for consideration and where he has decided to become the planning authority.

The GLA has also recently undertaken exemplary engagement and consultation on strategic planning documents. Emphasis has been placed on early engagement to provide a baseline understanding of the challenges, opportunities, and aspirations for an area from the perspective of local residents, stakeholders and community groups (*example included in response to Question 11*).

The Mayor's new London Plan gives community engagement the highest priority as embodied in the first Good Growth objective GG1 Building strong and inclusive communities which states:

To build on the city's tradition of openness, diversity and equality, and help deliver strong and inclusive communities, those involved in planning and development must: (A) encourage early and inclusive engagement with stakeholders, including local communities, in the development of proposals, policies and area-based strategies.

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

The Mayor's overarching priorities for strategic planning in London are set out through the following Good Growth objectives of his new London Plan:

- GG1 Building strong and inclusive communities
- GG2 Making the best use of land
- GG3 Creating a healthy city
- GG4 Delivering the homes Londoners need
- GG5 Growing a good economy
- GG6 Increasing efficiency and resilience.

For the Mayor, the London Plan is an opportunity to shape the future of London for generations to come – not only in regard to the way it looks and feels, but in its character and how Londoners live prosperous and fulfilling lives.

MAYOR OF LONDON

Pillar One – Planning for Development

5. Do you agree that local plans should be simplified in line with our proposals?

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

No. While the Mayor is supportive of workable measures to help simplify the local plan process where appropriate, he does not agree with the proposals in the White Paper for local plans with the introduction of the three new designations. It would add little value in London, as the proposed broad designation categories are already implicitly reflected in the London Plan and current local plans (but in a more nuanced and flexible way). Rather it would create confusion and be unhelpful since the proposed categories are too simplistic and inflexible. The urban development patterns in London are more complex, interconnected, granular and plans need to reflect important detailed spatial criteria, for example public transport accessibility and the need to balance competing uses such as employment, in order to optimise and guide development potential. Flexibility is also needed, as it is not possible to determine fully the parameters of schemes at plan-making stage as details, ownership, markets and local preferences all change to a greater or lesser degree over time. The planning system also needs to be able to respond to changing circumstances, including for example the fall-out from the current pandemic, and allow appropriate development without having to wait until another local plan cycle.

Even in a growth area not all sites would be suitable for blanket housing development, and there is a risk of inflationary impacts on land values. This would increase costs for developers when purchasing land and potentially undermine the delivery of infrastructure and affordable housing, particularly if these could not be secured when planning permission is granted. With the growth areas designation, there is also a risk of embedding inequalities by reducing regulation in areas that are most likely to have deprived communities, a poor local environment and fewer opportunities. These communities are also least likely to have the capacity to engage extensively for example in drawing up local design codes. Conversely there is potential for well-resourced communities across the country to lobby for 'protect' designations.

It is also unnecessary, ineffective and would require significant work to designate all land within an authority with such a blunt categorisation, which focuses largely on housing growth instead of providing a wider range of designations for different land use requirements including infrastructure and sustainable economic development, which is particularly important in a post-Covid world. The London Plan strategically designates Opportunity Areas, categorises Town Centres and regulates land requirements for essential, but lower-value, uses such as industry and waste management. These uses are crucial to support growth in a sustainable manner.

MAYOR OF LONDON

The Opportunity Area designations in the new London Plan (see Policy SD1) provide a useful alternative for delivering the aims of the proposed Growth Areas in built up urban areas. Planning for the Opportunity Areas is particularly successful in leveraging better outcomes and investment, as they facilitate collaboration across borough boundaries and most are linked to key transport infrastructure investment. The Mayor works closely with the boroughs and other stakeholders in developing Opportunity Areas (further details are on the GLA website <https://www.london.gov.uk/what-we-do/planning/implementing-london-plan/opportunity-areas/what-are-opportunity-areas>). He provides encouragement, support and leadership in preparing and implementing Planning Frameworks, which serve to help realise the potential of these areas. They include large, vacant brownfield areas, but not all sites in these areas are suitable for unfettered development. However, Opportunity Areas also include existing built-up areas, such as Victoria, Euston and Croydon, where planning must take account of various constraints and designations as well as an existing urban fabric.

A particularly important designation within the London Plan is the Central Activities Zone (CAZ). The density, scale and mix of business functions and activities in the CAZ and its environment and heritage are unique. The area accommodates one third of London's jobs and generates almost 10 per cent of the UK's output. The London Plan designation ensures a co-ordinated approach to strategic planning in the Zone which will help support its recovery from the Covid-19 pandemic and secure its future long-term growth. Further detail is available via the new London Plan Policies SD4 and SD5 as well as Annex 1. The proposed white paper classification is not appropriate for the CAZ, even at site level. The CAZ would be appropriate for 'growth' and 'renewal' in business, culture, education, tourism and other strategic functions, but this needs to be balanced with protecting and enhancing heritage assets, strategic views and the unique CAZ environment. The CAZ is a prime example where growth, renewal and protect need to be balanced on every site. Soho's unique character for example is a result of careful stewardship and management. Given the important strategic functions and cross-boundary nature of the CAZ, this balance must be struck at the strategic city-wide level.

In order to ensure sustainable patterns of development, it's important that commercial uses are focussed in well-connected locations. This is the basis for the town centre first approach in the London Plan and underpins the sequential and impact assessments in the NPPF. It is therefore important to retain town centre designations and mechanisms for focussing town centre uses in these areas. Sufficient flexibility is necessary to allow small-scale convenience retail for example to come forward outside town centres to serve a local residential area, while not allowing large retail or office schemes that could be accommodated in a town centre and would otherwise drive up car journeys. It may also not be appropriate for all town centres to be classified with a 'renew' designation, as many include substantial heritage assets, while others have significant growth opportunities.

A further example of a better and more specific designation is the Strategic Industrial Location (SIL) (see new London Plan Policy E5). The new London Plan promotes industrial intensification in SIL (see Plan Policy E7) to free up some industrial land for housing and other uses. The

MAYOR OF LONDON

proposed blunt classification could stifle this innovative approach in London. It would require a ‘growth’ designation for further industrial development, a ‘renew’ designation for complementary commercial land uses and a ‘protect’ designation for existing housing and community uses. This highlights the significant omission from the white paper to meaningfully consider non-residential uses, economic development or the contribution non-residential uses make to communities and neighbourhoods.

In terms of the ‘protect’ designation, the London Plan also sets out a tailored approach that provides a range of protections for example for strategically important views and wharves as well as Metropolitan Open Land.

Overall, the classification proposed in the white paper lacks significant detail and functionality, while the London Plan can already provide tailored and well-established designation solutions that work for London as a whole.

The proposed approach also appears to attempt to squeeze both broad strategic and neighbourhood/site-specific considerations into one single local plan layer. This is in contrast to many established international planning systems, which operate with different plans at different levels of detail. At the strategic end, in particular in large city-regions, it is necessary to set out an overall strategic vision and policies, with the purpose to provide coordination between different growth areas across one housing market area, such as in the London Plan.

The Plan’s coordination role is also vital to facilitate early engagement with infrastructure providers and ensure that necessary land is provided for infrastructure including transport, water management, flood risk, green infrastructure, aggregates and waste management. The Plan ensures that sufficient land is allocated locally for these and other uses.

6. Do you agree with our proposals for streamlining the development management content of local plans, and setting out general development management policies nationally?			
---	--	--	--

No. While there is a role for streamlining Development Management policies, nationally set policies could not fully or adequately consider the range of different planning issues across a complex urban area such as London. The current system in London must therefore be retained, devolving ‘national’ development management standards to a city-region level where these arrangements are in place, and with the London Plan setting strategic planning policies based on robust evidence. This delivers against the ambition to streamline local plans, as these London Plan policies do not need to be replicated in local plans. London demonstrates the highest design quality of all of

MAYOR OF LONDON

England's regions¹. The application of a national one-size-fits-all approach would erode this success: the opposite of the government's ambition for design and place-making (for further details specifically related to detail, please see responses to Questions 15 and 20). Discretion for these policies to continue to apply in London is therefore essential. The Mayor would be happy to discuss further potential mechanisms for this.

National policies will also stifle innovation in tackling local issues. For example, in London the Mayor pioneered the 'Agent of Change' principle. This new London Plan policy was developed because of the dynamic nature of land uses in a high-density city, where different and potentially conflicting land-uses may be located close together. This should also be a requirement for local plans, masterplans and permitted development, so that the impacts of new development are borne and addressed by the 'agent of change', rather than resulting in nearby businesses and community uses such as grass roots music venues, pubs and such uses being unduly impacted.

National policies could fail to reflect local demographics and demand and undermine the needs of various groups of the population. It would mean it would not be possible to adopt policies that protect LGBTQ+ venues, require provision of older persons' housing or accessible hotel rooms, or set the size mix for dwellings.

Many development plans also include policies that ensure the protection of certain uses and spaces – from cultural venues and infrastructure, community centres and pubs to parks, specialist accommodation and waste sites. In many instances, without protective policy, such uses could be lost and would be unlikely to be replaced due to land value differentials between use types. Many such spaces are also highly valued locally, and their loss would erode the character of an area and the quality of life for local residents. Many policies also include flexibility that allow loss in certain circumstances, often linked to marketing of premises – and these approaches are often tailored to the specific use (as marketing a pub requires a different approach to marketing an office). Some areas will also include protective policies for commercial (for example office, retail, industrial, etc) uses, tailoring the approach dependent on whether there is a surplus or shortfall of such uses and the likely effects of the market in renewing, re-providing or consolidating the stock in particular locations. It is unclear whether the white paper envisages these types of spaces to be protected under individual, site-specific 'protect' designations (something that would be a resource-intensive exercise, might not capture the nuance of policy, and that would not cover new premises that come forward within the duration of the development plan) or whether there is an intention to include general protective policies in national development management policies (which may again lack the nuance necessary or not be relevant in all places).

¹ <http://placealliance.org.uk/research/national-housing-audit/>

MAYOR OF LONDON

Far more clarity is required regarding the inclusion of development standards in local plans. The proposals envisage a standard template approach, but there is no further detail on this. It is suggested that government provides a template and clear guidance on how these should be applied and adopted by LPAs, so that local plans are consistent in their approach. However, the strict adherence to standards could also stifle innovative developments or changes in technology when applied on a national basis.

The application of national standards does also not reflect the potential of areas with high land value such as London being able to secure improved standards for developments. In particular, London Plan policies have been successful in delivering energy requirements in developments, which would exceed national standards (*see also response to Question 16*).

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

The Mayor is concerned that there is insufficient detail in the white paper to assess the efficacy of the new sustainable development test. The term ‘sustainable development’ is well-known but also open to significant interpretation, and there is no indication in the proposals of how to define it, although it will be fundamental to any future planning system to understand what the government means by it.

If the current Tests of Soundness were to be replaced with one single streamlined test, it is critical to have a clear and standardised approach that ensures that the full range of likely sustainability impacts currently considered are still comprehensively and robustly assessed and mitigated. This would be particularly important but also challenging for designated Growth Areas, where automatic Outline Consent would be granted through a local plan, while site-specific infrastructure and/or environmental considerations could not be optimised at a detailed planning application stage.

The Mayor welcomes the intention that the new test will take advantage of opportunities for environmental improvements, however, he is concerned that the proposals could result in worse environmental outcomes (*see response to Question 16*). The test also has to take economic and social aspects into account. Through promoting opportunities related to active travel, air quality, sufficient space for families to live and children to play, and many other objectives, the planning system has a significant impact on health and health inequalities. The choices made during plan preparation are key to determining whether a local plan supports the health of communities. It is therefore crucial that a sustainable development test incorporates tests around health and health inequalities.

MAYOR OF LONDON

A slimmed down delivery test as part of the new process could give rise to development plans that are unrealistic (e.g. high housing targets that are not going to get built out due to market absorption). It may also make it more difficult to set levels of affordable housing, infrastructure and other requirements in local plans appropriately.

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

In London, the London Plan and other Mayoral planning powers successfully ensure that strategic, cross-boundary issues are planned for across 35 planning authorities. It will be more important than ever as the Duty-to-Cooperate is removed.

The role of the city-regions is effectively absent from the white paper. Where devolved powers are in place, they should include those roles assigned to national level in the white paper where this is consistent with the devolved powers of the relevant administration. This should include preparation of spatial strategies, housing apportionment and the application of constraints, standard development management policies, Mayoral Infrastructure Levies and digital tools for data-sharing, plan-making and community engagement. This would ensure the benefits of devolution are realised through changes to the planning system including coordination of development patterns and infrastructure, ensuring the right development across market areas, driving up ambition and design quality and consistency between local authority areas.

The Duty to Cooperate has not been effective in facilitating strategic collaboration beyond London, but the white paper gives no indication of any other strategic coordination/cooperation mechanism or how government may facilitate cross-boundary working in the future. Strategic collaboration is particularly important where protection requirements constrain the land that can be made available locally to meet the need for development and when it comes to informing local plan preparation through the coordination of major transport and other infrastructure and significant growth areas. The white paper lacks recognition of the need for a strategic vision and concept for a future development pattern, which is particularly important for complex interconnected city-regions and can help to coordinate housing growth (areas) and other strategic uses around economic development and infrastructure requirements.

However, the lack of any proposals for replacing the Duty leaves a statutory vacuum in terms of collaboration beyond London's boundaries, where the Mayor has no planning powers and with no formal strategic planning arrangements in place outside London.

MAYOR OF LONDON

The new London Plan provides an appropriate framework for voluntary collaboration across the wider South East on a wide range of strategic matters (see Policy SD2, Part E). It calls for willing partners to work with the Mayor to build longer-term relationships that could also help to unlock strategic growth. The GLA has also been exploring the potential for joint working and shared evidence across the wider South East with strategic area-based partnerships and other strategic organisations that share the ambition to address longer-term growth needs such as Local Enterprise Partnerships and Sub-national Transport Bodies. The Mayor would welcome pro-active support for this work. However, the London Plan needs to be agreed and formally published before significant progress can be made, in particular on growth-related collaboration.

The removal of the Duty to Cooperate also has specific implications for waste management. While waste planning authorities have established some formal or informal mechanisms for joint waste planning or proactive cross-boundary co-operation that goes beyond the Duty, it remains a fallback mechanism for testing whether waste authorities are collectively seeking to manage their waste arisings. If it is to be removed, there will need to be more proactive planning for waste on a larger-than-local level, alongside formal mechanisms for ensuring all waste authorities are playing their part. The London Plan currently provides a strategic view of the waste management capacity necessary for the city to become net self-sufficient and encourages the boroughs to collaborate in order to achieve this. This mechanism has largely been successful as demonstrated by the number of joint waste plans adopted in the Greater London area. It is noted that the Waste Management Plan for England (Aug 2020) also discusses the need for waste planning authorities to co-operate on strategic matters, but similar to this consultation without proposing how this might be done in the absence of a formal Duty to Cooperate.

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

No. The Mayor does not agree that a standard method for establishing housing requirements that also accounts for constraints can be successfully introduced at the national level. Limitations around the feasibility of this approach are set out below and have not been addressed by the information set out in the white paper.

Firstly, notwithstanding the GLA's reservations around combining housing need and supply capacity into a standard method, any future method for establishing housing requirements would first have to address the fundamental issues raised in the Mayor of London's response to the Changes to the Current Planning System consultation (dated 1 October 2020). This includes the need for a standard method that determines what should be built where, in turn resolving the incompatibility between the current proposed method that ensures an uplift in London and the rural shires, where housing costs are the least affordable, and the government's stated objective to

MAYOR OF LONDON

better redistribute homes between high demand and emerging demand areas. The white paper fails to make clear how the proposed changes to the method would secure redistributive growth and the 'levelling-up agenda'. Instead there is a risk that housing is being seen in isolation from economic development and infrastructure investment, which have the potential to shift housing demand in ways that best support sustainable development country wide.

The white paper also does not make clear how constraint indicators would or could be applied to any nominal housing requirements generated by a future standard method. This leaves room to assume that the intention is to use a formulaic approach that factors in constraints through their potential land take or impact upon delivery likelihood, to reduce the housing requirement. If this is the case, to some extent, using a proportion based algorithm to reduce housing numbers may be possible for simple protectionist designations like green belt, MOL or AONB - where the proportion of land that cannot deliver housing is clear and could be applied as a capacity reduction. However, this approach would fail to account for the local context or complexities that may introduce constraints at the local authority or site level and could not recognise potential solutions that could boost capacity in spite of constraints, for example careful quality design to mitigate flood risk or impacts on a conservation area.

Moreover, this approach is highly unlikely to be plausible for land uses in major cities that could marginally constrain housing supply but still allow for delivery, such as town centres, education or economic floorspace. Planning for development, supporting Good Growth and delivering sustainable places involves planning for a broad range of uses and whilst planning for adequate housing is crucial, it is also vital that cities contain the wide range of uses they need in order to function sustainably. Large cities like London need to plan to meet demand for employment in offices; civic functions; higher and further education; distribution, research and development, clean tech and other industries; life sciences, health centres and hospitals; social infrastructure including schools, nurseries and sports facilities; retail and leisure; hospitality and tourism; culture and the arts; waste and utilities; and a variety of other uses. Understanding the demand for these uses, the available supply, and the residual land requirements is a complex process, with different factors for different uses. While there is merit in establishing consistent approaches to calculating residual demand, an overly simplistic approach could result in under-estimating the amount of land required for these uses, leading to dormitory settlements with no jobs and services.

Different places will also have different supply and demand profiles. Typically, London has had greater demand for logistics uses than other towns and cities in the UK due to the higher proportion of on-line retail and the need to service the many businesses and other uses concentrated in the Central Activities Zone. London has also seen faster re-purposing of vacant industrial land than other places in the UK over recent decades and no longer has a surplus of industrial land, given increasing demand for logistics functions and other uses (for example waste, recycling, utilities and transport uses) driven by the growing economy and population. It is therefore important that a

MAYOR OF LONDON

national standard method is informed by accurate assumptions about the supply of and demand for non-residential uses in cities like London.

Overall, in the context of London, where high density development and a complex mix of land uses is appropriate, it is unclear how other land use constraints like economic designations – which will be key to proposed growth and renewal areas - could be applied in a way that was genuinely fit for purpose, that would adequately take advantage of opportunities, or that would ensure sustainable development. To achieve this, strategic planning, including housing requirements/ targets, should be determined and distributed at the regional level - as the London Plan does for the constituent boroughs via a collaborative and robust Strategic Land Availability Assessment - as this is best placed to understand the unique opportunities, limitations and needs of the wider area. However, if this were to be the case clarity is needed over what happens when insufficient capacity means that an area cannot meet its share of the 300,000 target.

The Mayor is clear that his London Plan remains the most appropriate mechanism for determining the quantum and distribution of housing and other land uses to meet the needs of London.

Although the white paper does not specifically mention the London Plan, it is referenced implicitly in the proposition that the strategic distribution (but not the total) of the housing requirement could be altered by joint planning arrangements or Mayors of Combined Authorities. However, this ignores how planning for development, supporting Good Growth and delivering sustainable places involves planning for a broad range of uses that are vital for London to function.

Finally, if a standard method is imposed as proposed, clarity is needed over how this would interact with land allocations, which the white paper suggests would continue to be locally-set. The use of some form of algorithm focused on residential development, rather than spatial analysis, would not account for the differing demand for different non-residential uses in different places, for example, the lack of industrial space in London. It is also not clear how the capacity of built-up areas such as London will be assessed. If these supply and capacity indicators are used to set a standard method for calculating housing (and potentially other) land needs, then it would appear that the standard method will presuppose particular patterns of development, without testing the sustainability or suitability of that pattern. Where a housing requirement means that local authorities will also have to tackle densification, it is possible that binding housing targets will not be seen as leading to “gentle” densification as the government desires. An overly simplistic approach could result in under-estimating the amount of land required for these uses, leading to dormitory settlements with no jobs and services.

MAYOR OF LONDON

The proposed system should ensure that binding targets do not result in just a numbers focus at local level and consequently drive down quality and dwelling size rather than considering how requirements can be met at a wider strategic scale. It is also unclear how this binding requirement would be balanced against the strictness of Protection Area requirements.

The Housing Delivery Test (HDT) should not apply to areas that can demonstrate a 3-year supply of residential planning permissions. Any penalty resulting from the HDT should not undermine the spatial strategy and the public's confidence in the spatial planning process. The white paper seeks to provide more certainty in planning outcomes for developers, but also the public so that they engage upfront in the planning process. The application of the HDT should not automatically increase densities or building heights set out in design codes or masterplans as required by this consultation.

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

The GLA made clear in the Mayor of London's response to the Changes to the Current Planning System consultation (dated 1 October 2020) – which should be read in conjunction with the response to this question – that any future standard method for establishing housing requirements would first have to address the inherent problems raised around the affordability and existing stock indicators proposed. To summarise, any amendments to the current standard methodology that take into account existing housing stock rather than relying solely on population projections is preferred in order to reduce volatility created by population projections and affordability factors. However, in order to focus housing sustainably on existing settlements the minimum stock baseline should be raised and coupled with affordability adjustments that do not introduce further volatility, or double the affordability weighting by duplicating the effect of the level and change in affordability. This includes reconsidering how appropriate the changes in the ratio of housing price to earnings is as an indicator given that these are driven to a large extent by external macro-economic factors which create fluctuations in outputs that should not be used as a basis for long-term strategic planning. In addition, there is potential to introduce a formula that also accounts for affordable housing need and the affordability of private rents (for example based on the ratio of median earnings to median private rents as published by the Office for National Statistics).

As no further information is set out in the white paper that would address these issues, affordability and existing urban areas could remain inappropriate indicators for development capacity particularly in the highly pressurised London market where needs are acute and issues of high homelessness and overcrowding require a substantial uplift in the delivery of affordable, specifically social rented homes. Marginal changes in market affordability - even those that are considered to be more significant in other areas of the country - are

MAYOR OF LONDON

unlikely to have a substantial impact on these needs within the timescale required and overall the GLA continues to press for a more sophisticated model that better accounts for complexities and considerations of urban context. At present, the white paper proposals do not give confidence that any new standard method would provide the necessary detail for strategic plan making given the lack of tenure, type or size mix outputs which are particularly important in areas where affordability metrics will mean high levels of affordable housing need. This lack of detail in the standard method means that further evidence base work, at the London level and often at considerable cost, will always be required to ensure a robust policy framework and certainty for applicants, as well as supporting build out rates.

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?

No, as already set out in the response to Question 5, the Mayor does not agree with the proposals for the growth area designation as such, as it adds little value in London. Much of this could be done within the existing planning system, through the London Plan and the existing consents regime. It is noted that there has been limited take up of consent mechanisms such as Local and Neighbourhood Development Orders and Permission in Principle and the reasons for this should be explored and understood before applying them more widely via Growth areas.

There is also insufficient detail about the proposed consent mechanisms. The white paper proposals would require Local Development Orders and the preparation of associated master plan and design codes, so that development in these growth areas can be brought forward. It is envisaged that these documents would be prepared in parallel to the local plan (just 30 months). This would be very time and resource intensive and LPAs are highly unlikely to be able to prepare them within the proposed timescale. Local engagement would also be compromised by the pace at which they would need to be delivered. This would result in the scenario of sites having outline permission in a growth area but with the delay in bringing the sites forward, as the requirements for the detailed element would not be in place. It is unclear what would happen in that scenario but it would not be appropriate for a 'hiatus' period to arise (between local plan adoption and the adoption of supporting detailed codes and masterplans) where sub-standard development may come forward or land is sold at values that do not properly reflect the necessary costs of development or infrastructure.

The inclusion of a level of detail in the local plan required to provide sufficient certainty to accept automatic outline planning permission is too blunt a tool to ensure innovation and changes in circumstances or technology can be accommodated (*see more detail about the need for a flexible approach in response to Question 10*). The white paper proposals could reduce the opportunities to consider a development of high quality, which would better optimise the site, but did not comply with the relevant criteria in the Plan. Although the government

MAYOR OF LONDON

proposals include the option of submitting a planning application which is not consistent with the local plan, this could make the planning process appear more complex and opaque, as there would be ‘two systems’ operating concurrently.

There is also the risk that automatic permissions in growth areas would pre-suppose the delivery of infrastructure where the funding has yet to be secured, potentially causing unacceptable impacts such as crowding on rail services that could only be managed by temporarily closing stations in rush hours. Alternatively, local plans may be forced – potentially to avoid objections at local plan examination – to make conservative assumptions about the likelihood of infrastructure coming forward, and thus set parameters on sites that do not optimise their capacity. Currently, local plans are able to avoid this by deferring some of the assessment to the outline permission stage. At this stage, it is then possible to consider the latest status of the infrastructure investment, identify funding solutions and even use more creative options such as making some development conditional on the additional infrastructure provision. *Further details are included in the attached consultation response by TfL.*

A further risk is that site-specific environmental considerations that only emerge after the plan-making stage are not considered appropriately, which could weaken environmental protection and requirements (*see also response to Question 16, e.g. Recovering Nature section*). Also, it is unclear how project / site-specific environmental issues would be considered without an understanding of wider proposals to reform environmental assessment of plans and projects.

Another risk of automatic grant of planning permission on adoption of the local plan would be the increase in land values in these areas which will lead to potential speculation and land banking. This would increase the costs to future developers which would undermine the delivery of sustainable development in these areas. The automatic grant of planning permission could make it more likely that development is brought forward in a piecemeal fashion, which would impact on delivery of necessary infrastructure required to bring sites forward. This would be particularly problematic for the provision and co-ordination of utilities.

The white paper proposals are not clear as to how and at which stage land use requirements such as infrastructure and/or affordable housing would be secured as part of the planning process. Under the current system, these elements would be assessed and secured as part of the outline planning permission and not at Reserved Matters stage.

The Mayor is concerned that, with detailed matters proposed to be determined by officers, in growth areas with conferred outline permission, elected members could potentially only be involved at plan-making stage.

MAYOR OF LONDON

The Mayor is also concerned that the white paper is silent on referable applications and the Mayor's strategic development management role. The Mayor's powers related to strategic applications in growth areas with automatic outline permission would need to be transferred to the plan-making stage alongside involvement in more detailed relevant LDOs (and reformed reserved matters depending on the form of the application). This should also ensure that the designation of growth areas would be strategically informed and coordinated by the GLA and considered from a long-term perspective, so they would be appropriately located, optimise density commensurate with the surrounding infrastructure and development opportunities across borough boundaries. The GLA and TfL have the capability to inform strategic master-planning processes, as the work in Opportunity Areas demonstrates and they must continue to play a core role in this respect.

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

No, as set out in the response to Question 5, the Mayor does not agree with the proposals for the new designations in London.

There is insufficient detail around how the proposed permission process would work in Renewal areas. The process appears to replicate that envisaged for growth areas – and therefore the concerns raised above also apply here - except for different consent routes, which rely on having sufficient information in the local plan and design codes, on which to determine proposals in these areas (i.e. not just NPPF policies).

Renewal areas could encapsulate both well-connected locations where development should be encouraged to reduce reliance on cars, and less well-connected areas that are not marked for protection but would have more negative impacts on congestion, emissions and public health. There has to be a differentiation between such locations and development have to be steered to the most sustainable locations. This may also be relevant for development outside London, as around 3 in 10 car trips originate from outside the capital, and more car-reliant development would exacerbate the challenges on London's road network. *Further details are included in the attached consultation response by TfL.*

In terms of the Mayor's strategic development management role, and as mentioned in the response to Question 9a, applications of strategic scale/nature must continue to be referred to the Mayor based on the existing referral criteria in the Mayoral Order to ensure that strategic issues are appropriately considered.

MAYOR OF LONDON

Notwithstanding the Mayor’s opposition to nationally-imposed broad designations in London, if introduced, they would need to evolve over time and should be strategically informed and coordinated by the GLA and considered from a long-term perspective, so they can be appropriately located, and optimise density commensurate with the surrounding infrastructure and development opportunities across borough boundaries.

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. The regime of Nationally Significant Infrastructure Projects is not a suitable planning process for new settlements. It is a legal and technical process that is based on a National Policy Statement. For substantial strategic infrastructure schemes, this can be an appropriate planning mechanism.

However, planning new settlements requires significant involvement of the LPA(s) and substantial engagement of elected local decision makers and local stakeholders. Only with local leadership/partnership, vision and support will a successful new settlement be delivered. The Development Consent Order process is not designed to facilitate this.

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

Some of the proposals to make decision-making faster and more certain are supported, but several others would not be effective or even counterproductive.

In principle, the aim of having less documentation and a more standard approach (including conditions) could provide clarity for all stakeholders and reduce the burden on LPAs when dealing with applications. However, this should not be at the expense of providing sufficient information on which to consider development proposals. There are concerns if information is to be presented and assessed using binary methods which would only be useful and suitable for small scale proposals.

The proposed consent process for the three designated areas is heavily reliant on codes and standards which envisages simplistic, binary decision making, and while developers seek a level of certainty when bringing forward their sites, they also want flexibility in delivery. It is not uncommon when dealing with proposals for major sites that there will be a series of subsequent applications to vary details of the original planning permission either through s73 or s96a amendments rather than having to revisit the whole application. In the current

MAYOR OF LONDON

white paper proposals, it is not clear how this would be achieved. This is one aspect where the government could amend the consents regime as proposed by the Planning Officers' Society to MHCLG over a number of years to speed up the planning system and reduce unnecessary burdens and red tape. **Please advise if further information is required.**

The Mayor would expect that local communities are consulted for their views when applications are submitted to LPAs. Although the community will be involved at the plan making stage, given the length of time that may have elapsed between adoption of a local plan and a planning application, members of the community should not be excluded from this process.

The Mayor also has concerns regarding the proposals for an automatic refund or deemed grant if planning permission is not determined within the statutory time limit. This will penalise local authorities who are already under-resourced and could result in local authorities opting to refuse planning permission in order to issue a decision within time rather than try and work with the applicant's team to achieve a positive outcome, which may take longer.

The white paper proposals would still allow applicants to submit development proposals which are not in accordance with the local plan designations, and/or design codes. As the LPA (and other stakeholders) would have spent considerable time and resource preparing this evidence in the local plan and accompanying documents, there should be a fee structure which is variable and increases the cost the further the proposed application deviates from the adopted Plan and codes.

The delegation of detailed planning decisions to officers should be decided at a local level by Councils in order to ensure that local democracy is maintained.

The proposal for an automatic rebate for applicants if a proposal is successful at appeal is unhelpful and not supported. The current appeals process allows the submission of additional information and in some cases alternative proposals at appeal which would not have been available to the Planning Committee. The proposals would both penalise a local authority and undermine local democracy.

The white paper suggestion to increase the speed of the appeals process including PINS becoming more digitally responsive and flexible is supported.

MAYOR OF LONDON

11. Do you agree with our proposals for accessible, web-based local plans?

The Mayor agrees with and supports in principle the proposed push towards digitisation and accessible, web-based local plans. However, there are also some concerns about the proposed approach which should be addressed.

Local plans rely on substantial amounts of place-based data, often compiled by consultants undertaking one-off pieces of work. The data is handled, stored and presented in different ways by different consultants and LPAs and often it is not published in open formats. This data is key to understanding the approaches taken by LPAs. In developing digital local plans, a transparent and standardised approach for evidence data would need to be developed also to allow comparing data across larger strategic areas and to identify common spatial challenges and opportunities. Digital innovation could also enhance local plan monitoring and make it more efficient through the use of standardised data sets and maps. Transparent and consistent evidence and monitoring data would also facilitate better coordination between spatial and strategic infrastructure planning.

With the ambition expected from a major global city, the Mayor has shown leadership in exploring a wide range of digital innovation projects leading the way towards more effective and user-friendly planning practices:

- The Mayor has led the country in opening up spatial data for planning, and publishing a website to enable residents and businesses access to spatial data about development and the city (<https://maps.london.gov.uk/planning/>)
- In cooperation with the Planning Portal a new platform for 'live' data feeds from the London boroughs has been introduced and started to operate successfully (<https://www.london.gov.uk/what-we-do/planning/london-plan/london-development-database/london-development-database-automation-project/>)
- An Infrastructure Mapping Application has been developed integrating spatial and infrastructure data across London and helping to coordinate strategic infrastructure interventions to reduce cost to infrastructure providers and minimising disruption for Londoners and business (<https://maps.london.gov.uk/ima/>)
- Later this year the first ever digital Strategic Housing Land Availability Assessment (SHLAA) will be commissioned that can be used at any time to support plan- and decision-making. This will complement the huge range of publicly available data through the London Datastore and TfL, supporting third-party app creation and leading the way in openness and transparency
- Transport connectivity data is available through TfL's Web-based Connectivity Assessment Tool (WebCAT), allowing Public Transport Access Levels and travel time catchments to be looked up for any specific location within London
- Innovation opportunities for SME in this sector have been successfully delivered through a Civic Innovation Challenge, which resulted in open source 3D visualisation software: PlanBase the first big step to opening the planning system to all, even those with limited cognitive spatial awareness (<https://3drepo.com/new-3d-planning-tool-planbase-to-help-increase-engagement-on-development-proposals/>)

MAYOR OF LONDON

- A digital user-friendly version of the new London Plan is being considered. It could be searchable by application type and provide information that specifically relates to a proposed scheme.

The GLA has also recently undertaken exemplary and innovative early engagement on strategic planning documents. For example, the Royal Docks and Beckton Riverside Opportunity Area Planning Framework (OAPF) process started with an extensive period of engagement of over 1,700 local people and stakeholders through pop-up events, community sessions, one-to-one meetings, youth sessions, and online via our Commonplace website. Local newspaper articles, online newsletters and social media targeting users in the local area were used to promote this engagement. The initial engagement phase is now being followed up by another non-statutory consultation on 'Vision and Principles' for the OAPF. Due to Covid-19 restrictions, this engagement will mostly take place online, with an interactive website via Commonplace, and a series of online workshops including youth-specific sessions. To capture the thoughts of those who are not online, 70,000 leaflets are being sent to local households that can be free posted back with comments. Multiple phases of engagement during the process of creating long-term strategic planning documents means that local people have genuine influence. It opens a discussion, rather than consultation at the end of a planning process, which limits engagement and leaves little opportunity to make changes based on findings.

Based on the GLA's leading role and experience, the Mayor has the following concerns about the white paper's proposals:

- The government's digital ambitions need to be more clearly defined.
- New digital tools will need to be coordinated and compatible with each other for this to be effective with overarching standards, including standards for APIs, which all providers will need to use to enable interoperability. This will not only apply to planning, but all public services that currently feed and consume data from the planning system, for example building standards, housing and environmental protection.
- Crucially, the model envisaged in the white paper assumes a new market where SMEs innovate and LPAs purchase solutions from them. Whilst the concept is admirable, LPAs normally do not have the necessary skills in-house or funding to employ SMEs that could create digital plans and other tools and further innovation for the planning and development industry. This challenge is further exacerbated by a lack of resources in LPAs. Whilst the work of the local digital fund in supporting this area of work is welcomed, the example GLA projects mentioned above demonstrate the significant level of resourcing required to develop functional digital tools that can effectively support decision-making.
- More emphasis is needed on how the planning and development regime can be used to create data to enable digital innovation and further insight into how cities are changing.
- There are limitations to digitisation as the primary means for community engagement, including issues of access to technology and exclusion. So, while there's substantial potential for digital formats to engage, the risk of digital exclusion must be addressed. Standard templates may help to ensure compliance of digital plans with Public Bodies Accessibility Regulations. People who are not online should

MAYOR OF LONDON

have the opportunity to require information in alternative accessible formats. People with disabilities may need reasonable adjustments to be made in accordance with Equality Act 2010 requirements.

If the government is serious in this ambition for web-based, digital local plans, it must allocate additional resource to support LPAs to upskill their workforce and support the cost of purchasing new technologies. Without this, the delivery of the change sought will be slow and carries significant risks of failing to mandate a minimum level of digital access to information, data and plans and to provide guidance on how to comply with the Equality Act.

The Mayor will continue to work with government and share knowledge to inform the digitisation agenda and further innovation.

12. Do you agree with our proposals for a 30 month statutory timescale for the production of local plans?

No, the Mayor does not agree with the proposed statutory timescale for the production of local plans. He agrees that local plans should be produced in an efficient and timely manner, but the timescale of 30 months appears unrealistically short for the following reasons:

- Plan-making authorities in London would struggle based on current resources, as the proposed timescale is shorter than current local plan preparation without the additional white paper requirements in terms of area designations covering the whole Plan area.
- There is not only a staff but also a skills shortage to meet the white paper proposals– see *the Mayor’s comments on the government’s emerging Resources and Skills Strategy following the response to Question 26*.
- local plans still need to be supported by a robust evidence base to provide the required certainty for developers and infrastructure providers and to reflect the needs of all Londoners, and only one year to produce this robust evidence and write a local plan is insufficient.
- The accompanying masterplan and design code documents also need to be produced alongside, as otherwise there would be delays for any applications being brought forward.
- The time for local consultation is insufficient for meaningful engagement and any real opportunity for all of London’s diverse communities to iteratively shape their neighbourhoods. The process would also severely disadvantage SMEs and small housebuilders who are unlikely to be able to engage across broad designated areas to secure detailed design preferences through a 6-week plan-making engagement windows or detailed design codes and masterplans. Any consultation requires extensive preparation, and co-design processes, as championed in Living with Beauty and to achieve high quality and functional design, take 6-12 months and significant resources to be meaningful.

MAYOR OF LONDON

Before the first stage of extensive public engagement, there needs to be time to compile and undertake initial evidence. For engagement to be meaningful and informed, communities need to be able to understand the opportunities and challenges their area faces, also based on broad demand requirements, characterisation and development opportunities, as well as key statistics about the area. This would not be possible, if this evidence is only compiled after the consultation.

As part of early engagement work, there should be an increased emphasis on seeking views from a wide range of stakeholders. Given the particular importance of planning for addressing health and health inequalities, Directors of Public Health should be involved as additional statutory consultees. Infrastructure providers should be involved early in the plan-making process to facilitate coordination between spatial and infrastructure planning.

The slimmed down plan-making process partly relies on removing the option of modifications between the draft local plan consultation and submission to the Planning Inspectorate. This reduces the LPA's control and democratic oversight over its own Plan at a crucial stage where otherwise objections could be addressed prior to the examination in public limiting the scope of matters that have to be discussed.

The Mayor is clear that his general conformity role in assessing Local and Neighbourhood Plans should be retained and incorporated in any new Planning legislation.

It is ironic that the proposed faster plan-making process is contradicted by the continued delays to the publication of the London Plan. Legislation suggests this should be 6 weeks, but government has failed to effectively engage with and respond to the new London Plan now for 10 months. It is unacceptable that London's development industry has had to continue to take two plans into account when applying for planning permission or making investment decisions, and the delay is also causing challenges for London boroughs keen to progress their local plans. This erodes confidence in the ability for local plans to be dealt with within these extremely challenging timescales.

The white paper changes risk further disruption to investment and delaying development for years to come.

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

As part of my commitment to good growth, I support empowering communities to have a greater say in how their city develops, whether through Neighbourhood Forums and Plans or other local structures and funding opportunities. Neighbourhood Plans must align with the

MAYOR OF LONDON

strategic priorities set out in the London Plan, such as delivering the homes that Londoners need and supporting London's economy. Consideration also needs to be given to what would happen to the neighbourhood proportion of the Infrastructure Levy.

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?

In line with the recommendations of the government's Letwin Review, both the 2018 London Housing Strategy and the new London Plan seek to increase housing supply in London by diversifying the housebuilding industry in terms of tenures and developer types, promoting increased delivery from Build to Rent providers, councils, small and medium sized developers and community housing groups. In addition, the Mayor's delivery programmes such as the Small Sites Small Builders programme has contributed to the diversification of house building in London by facilitating entry of SMEs, bringing forward additional publicly owned sites and bringing more landowners into the market. As such, the proposal to better account for the findings of the Letwin Review by adding to national policy is supported.

However, Letwin also found that increasing funding to social rented and other types of affordable home would increase build-out rates by making delivery of these homes less reliant on cross-subsidy from market housing, and also that demand for affordable housing and purpose-built private rented homes is largely additional to, rather than a substitute for, demand for market sale homes. Affordable housing – in addition to general diversification – is a key aspect of overcoming stalled build out due to market absorption rates. The government should further consider how policies that promote the delivery of affordable and Build to Rent homes can be strengthened at the national level, rather than relying too heavily on the delivery of homes for market sale. Not only will this increase build-out, it will meet needs and ensure that developers take a longer-term interest in their buildings.

Another issue for the build-out of development is infrastructure provision, and a larger number of even small sites can have implications for infrastructure delivery, including utilities. A recent study by the GLA showed that a single landowner/developer can deliver significant benefits in working with utility companies. If sites are split between multiple builders, the local plan should ensure multiple developers work together to adopt a comprehensive and long-term approach to infrastructure delivery, for example utilities, transport or green infrastructure. In addition, if the Infrastructure Levy receipts are not received until the development is completed (as per the white paper's proposal) the local authority may not provide infrastructure until a scheme is completed, as it will be uncertain how much funding it will receive, or it may choose to prioritise affordable housing delivery.

MAYOR OF LONDON

Pillar Two – Planning for beautiful and sustainable place		
<p>15. What do you think about the design of new development that has happened recently in your area? (requires access to such evaluation?) <i>[Not sure or indifferent / Beautiful and/or well-designed / Ugly and/or poorly-designed / There hasn't been any / Other – please specify]</i></p>		
<p>The Mayor supports the government’s recognition of the importance of high-quality development, which is critical for healthy and resilient communities and strong local economies. However, it is important that quality of the built environment is defined not just as an aesthetic judgement, but as the things we need to enhance our quality of life in a dynamically growing city – light, air, access to green and open space, equal access through sustainable modes to amenities and privacy. Through the London Plan and associated guidance, London has seen success in securing design quality through the existing planning system. The Place Alliance’s Housing Design Audit for England 2019 found that out of the nine English regions, London received the highest average design quality score, and the highest proportion described as good (30%) or very good (20%).</p> <p>The Mayor and functional bodies have contributed to this success by:</p> <ul style="list-style-type: none"> • Producing clear, evidenced design standards such as those included in Housing SPG (currently being updated), Play and Recreation SPG, and new London Plan design policy. • Strategically planning for active travel and aligning development with public transport – this is key to creating good places - through the Mayor’s Transport Strategy and Opportunity Areas Planning Frameworks (OAPFs). • Incorporating Healthy Streets and Vision Zero approaches in local plans and developments to facilitate good quality and safe public realm (<i>further details are included in the attached consultation response by TfL</i>). • Promoting design reviews by the GLA and in local authorities, as supported by new London Plan policy and the London Review Panel/Mayor’s Design Advocates. • Providing a clear focus on good design and good places, through a robust approach to defined housing standards and energy methodologies as set out in the new London Plan and supplementary guidance. This has provided the certainty that planning applicants require. <p>The Mayor will continue to find ways to support and encourage high quality development, but the introduction of an entirely new development management system, which does not reflect the complexities of development in a dense city, introduces a definition of</p>		

MAYOR OF LONDON

design that prioritises aesthetic appeal over function and performance, and takes insufficient account of the rapid changes in construction technology, risks undoing all the good work of the past 20 years.

Over the past 20 years, the design quality of new development in London has been through a massive step change. The Mayor has contributed to this process through design guidance, support on referable applications, and the production of a spatial strategy for London that relies on design quality to realise the potential of development sites. Achieving consistently high-quality design requires dedicated resources, a clear focus on good design and good places, a robust approach to defined housing standards and energy methodologies, and flexibility to respond to context. The Mayor has supported London's planning authorities in ensuring applicants take full account of design matters in proposals.

The need to provide adequate resources is supported by the [Public Practice/GLA Place Shaping Capacity survey 2020](#). This suggests that notwithstanding the high quality of recent developments, the capacity of placemaking skills in London boroughs is increasingly stretched, especially in dealing with strategic issues such as long-term planning. There are also concerns that capacity is not evenly spread across London, and not necessarily where most development pressure is, and many of the skill sets required to develop local plans within the timeframes of the white paper are not available to planning authorities.

16. Sustainability is at the heart of our proposals. What is your priority for sustainability in your area? <i>[Less reliance on cars / More green and open spaces / Energy efficiency of new buildings / More trees / Other – please specify]</i>		
---	--	--

Sustainability is also at the heart of the new London Plan. While reducing car use, lowering energy demand and tree planting are vital levers, it must be about much more than this and form a coherent and integrated approach. The three pillars of sustainability - economic, social and environmental sustainability - must be the foundation of any planning system. These pillars of sustainability are presented in an integrated way in the new London Plan's overarching Good Growth objectives. The Mayor considers that the white paper's current proposals will reverse the positive progress being made in London and fail to address the scale and urgency of the need to tackle the climate and ecological emergencies.

Over the last 20 years, the London Plan has been providing an effective mechanism for planning sustainable patterns of development and transport infrastructure across London, which would not be achievable without London-wide co-ordination. The proposal to designate land into areas, particularly growth areas, in development plans must be linked to sustainable patterns of development. Therefore,

MAYOR OF LONDON

growth and renewal need to be integrated with existing and new sustainable transport infrastructure (walking, cycling and public transport networks). The integrated planning of transport infrastructure and development helps optimise the development capacity of sites and provide funding for transport and other supporting infrastructure, as well as creating healthier sustainable places to live.

Circular economy and waste management

A transition to a circular economy – as is central to the national Resources and Waste Strategy - must underpin the new planning system and any concept of sustainability must cover the material that goes into creating the built environment, retaining the highest value of this material for as long as possible. This aspect of the circular economy is reflected in buildings and places that have stood the test of time with robust materials and adaptable building types.

The current linear model of material extraction and consumption is unsustainable. A new planning framework must embed circular economy approaches into the built environment to encourage the conservation of resources; promote the reuse and recycling of material; and require design strategies that give rise to buildings and places that are flexible, adaptable and ultimately, easily disassembled and recycled. Such an approach would have clear benefits to resource consumption, land use, carbon emissions and embodied carbon, congestion and air quality - as well as helping to manage waste more sustainably.

The new London Plan sets out clear policies to achieve a circular economy and the Mayor has developed draft guidance to help put this concept and the new London Plan policy into practice, which can be viewed here ([**Circular Economy Statements - consultation draft \(October 2020\)**](#)).

The new Waste Management Plan for England (Aug 2020) acknowledges this consultation and states that this “would mean consequential changes to the...National Planning Policy for Waste”. However, the implications of changes to the planning system on planning policy for waste management are not addressed in the white paper.

Zero carbon

The Mayor has been operating a net zero carbon target for residential buildings in London since 2016, which goes far beyond what is required nationally and is in line with the Mayor’s aim for London to be net zero carbon. The government’s proposals must similarly be updated in line with the UK's net zero carbon target and the Climate Change Act. Net zero carbon buildings (residential and non-

MAYOR OF LONDON

residential) and infrastructure should be required from the start to avoid the significant costs associated with retrofitting that would otherwise be needed to meet the government's net zero target. It is also important that the need to calculate and reduce embodied carbon emissions is included as part of achieving net zero.

The proposed energy efficiency standards in both the new Part L 2020 and the proposed Future Homes Standard are not ambitious enough and will not result in net-zero carbon homes. Embodied carbon emissions are a major gap and the performance gap has not been addressed; both of which are captured in the new London Plan Policy SI 2 and associated guidance (**Whole-life Carbon Assessments - consultation draft (October 2020)** and **'Be Seen' Energy Monitoring Guidance - consultation draft (October 2020)**). In London, through the net zero carbon homes policy, which will shortly be extended to non-residential development, it has been demonstrated that higher carbon reductions than that proposed by the Part L and Future Homes Standard consultation can be achieved and have been so since 2016. GLA monitoring reports show that the net zero carbon homes target is an established standard for London that is being delivered. In 2018, residential developments referred to the Mayor achieved a 39% carbon improvement on current building regulations on average, comfortably surpassing the minimum improvement target of 35% (details are available in the Mayor's Energy Monitoring Reports <https://www.london.gov.uk/what-we-do/planning/implementing-london-plan/energy-monitoring-reports>). The results for 2019 will be published shortly and are expected to show even higher reductions for the third year running indicating that our net zero carbon standard is driving on-site carbon savings year on year. The Mayor's response to the Future Homes Standard consultation contains further details, including technical analysis that shows that London's standards are higher than the proposals, it can be viewed here https://www.london.gov.uk/sites/default/files/fhs_consultation_response.pdf.

In order to meet the UK's zero carbon target, local authorities must be free to set targets beyond national policy. The Mayor has played an important role in innovating and trialling new approaches to achieve much higher emissions reductions than are required nationally, and as a global city has led by example. London's net zero carbon policy is based on a minimum 35% carbon improvement on building regulations with any shortfall being met via a cash-in-lieu contribution to the relevant borough's carbon offset fund using the GLA's recommended offset price, or a locally set price. These funds are secured through section 106 and this approach has been operating successfully in London since October 2016 with funds ring-fenced for spending on carbon saving projects, such as retrofit programmes and solar PV installation. As of March 2019, £50 million had been collected. The proposed changes to section 106 need to ensure that a mechanism continues to exist for planning authorities to collect carbon offsetting funds, which will be needed until all development can achieve net zero through onsite measures and to act as an incentive to maximising on-site carbon reduction (*see also answer to Question 22a on changes to Section 106*).

MAYOR OF LONDON

Sustainable transport and pattern of development

The Mayor has set out his approach to sustainable transport in his Transport Strategy, which seeks to increase the proportion of journeys in London made by walking, cycling and public transport from 63 per cent in 2015 to 80 per cent by 2041. The new London Plan reflects this by directing growth to well-connected locations and ensuring the design of development supports sustainable travel, such as by providing good quality cycle parking, limiting levels of car parking provision and ensuring developments support the Healthy Streets Approach set out in Policy T2. This is important to ensuring development is less reliant on cars, which will be essential to London in tackling congestion, emissions and road danger and improving public health, in the context of finite road space and a growing population. London is well-placed to go further than the rest of the country on reducing car reliance given the intense challenges facing the city, and the opportunities from having good levels of public transport accessibility. Some of these aspects are important to reproduce outside of London, as the 3 in 10 car trips in the city originate from outside it, increasing the pressure on our road network. *Further details are included in the attached consultation response by TfL.*

Air quality

The Mayor is extremely concerned that the need to improve air quality is completely absent from the consultation given its impact on the health and wellbeing of all Londoners. The design of development, location of land uses and their traffic generation, transport routes, and construction all affect air quality. The new London Plan policy aims to mitigate the impacts of poor air quality and seeks to improve air quality. For example, the requirement for Air Quality Neutral development is an approach to reducing contributions to regional and background pollution concentrations. It is a rules-based approach based on emission benchmarks that developments need to meet, the Air Quality Positive policy seeks to embed strategic, area wide, approaches to improving air quality at the plan making stage.

Climate change adaptation

Climate change adaptation must also be embedded as fundamental elements of plan making and development. Places and buildings that are not designed for the changes in climate that are expected will expose people to risks of flooding and overheating and can also mean expensive and energy-intensive retrofit is required in future. The planning system should be clear on how the best and most accurate data on issues such as flood risk, water consumption/supply and extreme weather can be used to guide development. All this is not specifically addressed in the white paper. In contrast, the cooling hierarchy in the new London Plan sets out how heat risk can be minimised and the

MAYOR OF LONDON

drainage hierarchy sets out how surface water flood risk can be minimised. Both approaches are exemplary and tailored to the dense urban characteristics of London. In terms of flood risk, the Mayor also supports the work of the Environment Agency on flood risk management and their advice on development proposals should be followed.

Water management aspects are also not explicitly mentioned in the white paper in terms of environmental standards/requirements. However, as large parts of the country including the whole South East of England are designated as water stressed, this should be an important consideration for development proposals. The new London Plan includes Building Regulations Optional Requirements for water use for all developments across London.

Green Infrastructure

The Mayor is concerned that insufficient emphasis is given to the value of parks and green spaces within the white paper. The new London Plan aims to protect and enhance the network of green and open spaces and green features in the built environment and more widely through a strategic approach to green infrastructure. The Urban Greening Factor (UGF) is an important part of this, setting out targets for development to contribute to and enhance green infrastructure. This approach allows other policy objectives such as those for biodiversity and sustainable drainage to be considered together and benefits maximised. This approach is flexible to accommodate different design and environmental needs and priorities for specific areas and development sites and could be applied more broadly as part of the new planning system. The UGF policy of the new London Plan was specifically referenced as good practice in the 'Living with Beauty' report by the Building Better, Building Beautiful Commission (Jan 2020) under its 're-green our towns and cities' policy recommendation. Such good practice should be considered in the context of the preparation and implementation of design codes.

Recovering Nature

The planning system has an essential role to play in restoring nature, yet the white paper does not set out how the proposed Local Nature Recovery Strategies or the wider Nature Recovery Network will inform local plans or any requirements on new development, particularly in growth or renewal areas. Nature's recovery cannot be achieved through protected areas alone – indeed the new London Plan requires all developments to seek to deliver net biodiversity gains informed by local biodiversity priorities, and the UGF seeks to maximise urban greening. The ability to impose London-specific approaches such as these must be maintained.

MAYOR OF LONDON

While the white paper references the 25 Year Environment Plan and the Environment Bill, it is unclear how these have influenced decisions and thinking for the white paper, although both must be embedded in any new planning system.

The white paper does also not consider how the potential for negative biodiversity impacts will be dealt with at the individual development level. Tools such as the Biodiversity Metric can provide clear principles for how developments must consider biodiversity and could lead to positive outcomes in some locations. However, these approaches cannot replace the need for site-specific consideration of the impacts of a detailed planning proposal on biodiversity, particularly in more sensitive locations. The Mayor does not believe it is possible to front load this level of detail into plan-making, in part due to the availability of suitable and timely ecological information and recognising that ecological and project details change over time.

Overall, the Mayor is concerned that the protection and recovery of nature could be at risk from proposals in the white paper. This could be exacerbated by future reforms such as expected changes to environmental assessment process.

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

The Mayor's new London Plan supports greater use of design guides and codes. However, frontloading engagement and development management process into the plan making stage will require time and resources. The [Public Practice/GLA Place Shaping Capacity survey 2020](#) suggests that notwithstanding the high quality of recent developments, the capacity of placemaking skills in London boroughs is increasingly stretched, especially in dealing with strategic issues such as long-term planning. There are also concerns that capacity is not evenly spread across London, and not necessarily where most development pressure is, and many of the skill sets required to develop local plans within the timeframes of the white paper are not available to planning authorities

A [national design guide, model design code and revised manual for streets could be a helpful addition to planning in London and avoid duplication](#) of standard matters and requirements. However, there must be flexibility for strategic and local design guides and codes to be developed in a meaningful way in order to reflect the wide variety of areas in a large dense city. A wide range of sectors and disciplines should be consulted on the revised Manual for Streets, to ensure integration with all aspects of street design including utilities and highway authorities. The Mayor has developed a model for prioritising quality in London. Through the Good Growth by Design programme, and with the support of the Design Advocates, principles and practices for good growth have been developed, providing guidance on housing design, public space, workspaces and industry, children and young people's experience of the city, social infrastructure. London's design review sector has developed as an independent, well-understood and trusted mechanism for assessing and raising quality in the planning process.

MAYOR OF LONDON

Design codes can be produced for different purposes, from enabling and agreeing an approach to the incremental development of an existing urban area (which could be quite restrictive if the area has a unique historic character), to providing the detail for implementing a masterplan and securing outline planning permission. Thus, the role and statutory status of different types of design code in the new system needs to be made explicit to avoid confusion and delay in approving development.

Area and site-specific design codes will take time to prepare, particularly as there will need to be meaningful engagement with the local community. The Mayor is concerned that the quality and efficacy of the codes will be compromised if they are prepared at the same time as preparing the local plan and consulting the local community in the designation of areas (growth, renewal, protect).

The white paper suggests that design guides and codes will only be given weight in the planning process, if they are prepared with effective input from the local community. Good design codes are the product of skilled, experienced design professionals working closely with local communities, with the ability to translate planning requirements together with local context and characteristics into guidance.

While certainty and standardisation, are important, flexibility will also be required in certain circumstances. Large sites in particular take a long time to develop and will be exposed to changing circumstances in terms of markets, land uses, housing and social infrastructure demand, as well as environmental priorities. Many proposals require the use of Section 73s/Non-Material Amendments, and Reserved Matters Applicants to iterate and progress masterplan-led projects.

The Mayor is concerned that too much is being asked of these design guides and codes. From experience in London, it can be difficult to produce effective design codes that strike a balance between being overly prescriptive (ending up with dull repetitive 'copy/pasted' elements) and open, leaving too much to interpretation. This will be even more challenging considering that these design guides will be the main form of community involvement in any development for the coming years, under the white paper proposals. There is a real risk that guides and codes will be rushed through every stage, and instead of being something tailored specifically to each area and context jointly with local people, will merely become variations of the same code everywhere.

Local authorities should be encouraged to garner contributions from across the built environment sector, so that they account for a range of expertise and considers all infrastructure components. Design codes should explore how forms of infrastructure such as cycling, EVs,

MAYOR OF LONDON

utilities and digital can be integrated intelligently into the street scene or public realm. Local plan requirements and design codes need to account for all types of infrastructure at the forefront of master-planning and understand how demands and requirements for infrastructure shift across sites.

In conservation areas, if an approved person/business process were introduced for routine matters the sign-off of works would need to be considered. This would be necessary to enable building owners to prove that works have been carried out in compliance with requirements, particularly for insurance and conveyancing purposes.

The Mayor is concerned that insufficient emphasis is given to the value of parks and green spaces within the white paper. Given the increased importance of private and public amenity, which has been further reinforced following the experience of the Covid-19 induced lockdowns, landscape design needs to be given greater emphasis and protection. The landscape elements of a project tend to suffer more than the building elements in the UK construction procurement process as landscape features are usually the first thing to be cut if savings are required.

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?

The Mayor welcomes additional support and resources for design and place-making in local authorities, but it must cover more than aesthetics and promote good growth to enhance our quality of life and environmental recovery. It should retain focus on creating good places through the planning system by regulating good urban/architectural/landscape design that meets the needs of London and Londoners. The new body should create a knowledge-base of good practice and support local design bodies to create specific design codes, rather than a blunt top-down approach. Any additional resources to support design quality should be a dispersed model that creates capacity locally - there is no replacement for adequately resourced design teams and design review panels in local authorities. Any strategic resource should be focussed on supporting this local capacity.

The Mayor also welcomes raising the status of local authority chief design officers. These must have a broad remit to cover all aspects of the built environment, including public realm, and corporate asset development, as well as planning. However, a dedicated officer alone is not sufficient and also requires the skills and resources in LPA planning teams and, for example, Design Review Panels.

MAYOR OF LONDON

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

The Greater London Authority is responsible for housing investment in London, and already champions high quality design by closely aligning its affordable housing investment and planning powers. The new London Plan promotes a design-led approach aimed at delivering the Mayor’s good growth principles in each development, with ambitious mandatory design standards and additional guidance to help drive up quality. The Place Alliance Housing Design Audit for England demonstrates the success of this approach which provides a useful benchmark for Homes England to drive up the quality of development for other regions.

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

The Mayor believes it is important that quality of the built environment is defined not just as an aesthetic judgement, but as the things we need to enhance our quality of life in a dynamically growing city – light, air, access to green and open space and privacy. A tick-box approach to ‘traditional’ features would preclude the exciting, innovative, contemporary architecture that London excels in. Through the London Plan and associated guidance London has seen success in securing design quality through the existing planning system. The Place Alliance’s Housing Design Audit for England 2019 found that out of the nine English regions, London received the highest average design quality score, and the highest proportion described as good (30%) or very good (20%).

The Mayor has prepared draft planning guidance on area design codes (**Good Quality Homes for all Londoners - consultation draft (October 2020)**) and the key parameters for development are based on quality of life factors for residents - **Good Growth**. This approach provides more holistic understanding and what is good design than purely focusing on aesthetic, which may be implied by the term ‘beauty’. The guidance sets out seven key themes for the quality of life factors covering the scale of the neighbourhood through to the scale of the home. Qualitative descriptions and technical standards have been provided for each of these factors in order to set a benchmark for the highest quality housing development. Not all these factors will be relevant to the form of development and location covered by a particular design code, but by having a single reference source for technical standards that will deliver quality of life reduces the detail and resources needed for each code. The government’s own research has found that design is relatively low on the list of factors that are likely to reduce opposition to new development².

² Source: MHCLG, [Public attitudes to housing 2019](#). Figure 1.4 ranks “possible advantages that might increase support for more homes being built in the local area” according to a national survey, with “higher quality design of homes” coming in tenth behind things like social infrastructure, transport and affordable housing.

MAYOR OF LONDON

- For Growth Areas, the range and scale of development schemes and differences in complexity will mean that compliance with masterplans, design codes and any standard conditions for detailed approval will involve different levels of resource and time. The option for further time to resolve issues in agreement with applicants will also be important to avoid wasted time and resource both for developer and the LPA.
- For Renewal Areas the use of 'pattern books' as a way to industrialise housebuilding is unlikely to foster innovation as claimed, more likely that it will lead to the opposite outcome, namely cookie-cutter development that is able to be mass reproduced at scale and will not have regard to the variations of design and character in large cities such as London.

To genuinely understand the community's preference for what good design should look like takes time and staff resources (community engagement officers as well as design professionals). The London Plan supports Character Studies as an evidence-based approach which involves local people as vital stakeholders early in the process and is a more efficient and practical way of understanding local priorities than the proposals in the white paper. These Character Studies are not only records of architectural style, they play an important role when considering strategically the growth options across LPA areas.

The tragic Grenfell fire and the ensuing building safety crisis have pointed to the need for a change in the regulatory and policy systems, prioritising public and building safety over profit and aesthetics. Examples of broader considerations which are lacking from the white paper and which a focus on aesthetic considerations could compromise include: safety including fire safety; far-reaching measures to tackle climate change and the biodiversity crisis and inclusive design principles; promotion of active travel; improved air quality; vibrant streetscape and economic diversity, which need to be further prioritised in the Covid world³.

As the Independent Review of Building Regulations and Fire Safety makes clear, consideration of fire safety should be given at all stages of a project, including the planning stage. In his new London Plan, the Mayor calls for the highest standards of fire safety at the earliest planning stages, with an independent Fire Statement to accompany all major development planning applications. Similarly, the draft Building Safety Bill proposes the creation of a gateway system that will require developers to set out fire safety considerations for new buildings, before planning permission is granted. The deregulatory thrust of the white paper's proposals seems at odds with this level of regulation, and the proposed new system risks undermining the standards of the new building safety regime. Rushing buildings through a streamlined planning process with little regard to fire and building safety will only increase the risk of another avoidable fire tragedy.

³ Good Growth by Design programme developed with the Mayor's design advocates. The Healthy Streets Principles in the Mayor's Transport Strategy.

MAYOR OF LONDON

Any principles or criteria used to define the white paper concepts of beauty for the purposes of the planning system will also need to reconcile local character and preferences with other considerations such as modern modes of construction, the modal shift needed to achieve the objectives set out in the Department for Transport’s *Decarbonising Transport – Setting the Challenge* for example and broader interventions required to meet the government’s net zero commitments.

Pillar Three – Planning for infrastructure and connected place

21. When new development happens in your area, what is your priority for what comes with it?
[More affordable housing / More or better infrastructure (such as transport, schools, health provision) / Design of new buildings / More shops and/or employment space / Green space / Don’t know / Other – please specify]

The new London Plan sets out the strategic framework for development in London including the delivery of housing that meets the needs of Londoners, employment space that supports London’s crucial role in the global, national and regional economies. It does so under the principles of good growth recognising that high quality design, the provision of transport and community infrastructure and high environmental standards are crucial to the sustainable development of the city.

The Plan also provides guidance for plan-makers, applicants and decision-makers regarding the delivery of Development Plan policies and planning obligations. Priority should be given firstly to affordable housing and necessary public transport improvements, and following this, the delivery of health and education infrastructure, and affordable workspace, culture and leisure facilities in delivering good growth.

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?

No. The proposals for a national Infrastructure Levy (the ‘Levy’) would be a significant and damaging departure from the current system of developer contributions which has been established and developed over the last 30 years. This response draws on the GLA and TfL’s substantial experience of dealing with S106 agreements for referable planning applications and the Mayor’s Community Infrastructure Levy (CIL), together with the expertise of London Boroughs through the London Authorities’ Viability Group and London CIL Collection Group.

MAYOR OF LONDON

The government's intentions are that the Levy would deliver a consistent and simplified approach, to speed up the planning process and establish an approach that is responsive to local needs, market conditions and that provides greater transparency and certainty for communities and developers. A further aim is to raise more revenue than under the current system. For the reasons set out in this response, the Mayor does not consider that the Levy proposals will achieve this, but instead will cause significant adverse impacts in terms of the scale, timing and certainty of infrastructure funding which will undermine the delivery of development.

This question (22a) raises a wide range of issues which will be addressed by firstly considering: the current system of developer contributions, including the white paper's proposals for retaining S106 planning obligations and the operation of CIL and Mayoral CIL; and secondly, the Levy proposals including the implications of deferring infrastructure payments to the end of the development process, basing the Levy on the final value of the development, and the introduction of a value-based minimum threshold. Further aspects of the Levy including the rate setting process and value secured through the Levy are addressed under subsequent consultation questions.

The current system of developer contributions

S106 planning obligations and CIL are well established systems which help to ensure that development is acceptable in planning terms. They address a range of planning issues and enable planning consent to be granted where that otherwise would not be the case. S106 and CIL are also effective as land value capture mechanisms, however they have a much broader purpose in the planning system than functioning as a development tax.

The proposals for the Levy focus on the delivery of financial contributions for infrastructure and affordable housing. However, they do not refer to other forms of planning obligations that are typically secured through S106 agreements or transport measures within S278 agreements and which help to ensure that development is sustainable. The delivery of onsite strategic and local infrastructure is key to good growth in London. The provision of infrastructure through planning obligations also adds value and enables delivery, including complex high-density schemes. For example, transport infrastructure often enables development sites to be delivered, in many cases at increased housing densities.

A range of other obligations are typically secured in S106 agreements which help to ensure that development is acceptable and support delivery. These include: transport mitigation, the provision / re-provision of existing infrastructure or community and cultural facilities that may be lost as part of a development; community access arrangements; affordable / creative workspace; employment and construction placements and training; construction monitoring to mitigate impacts on neighbouring properties; carbon offset

MAYOR OF LONDON

contributions; and financial contributions for other local or strategic works that mitigate the impacts of a development and which are not addressed through CIL (e.g. highway works), amongst others.

The Levy proposals do not appear to take this into account or provide an alternative mechanism with sufficient flexibility for securing measures, for example transport mitigation, that are necessary for a development to take place. The implications of this are likely to be significant raising delivery concerns, particularly on complex brownfield sites, which will impact on London's ability to meet housing targets.

Similar concerns were raised in relation to the S106 'pooling restrictions' which were subsequently removed from the CIL Regulations in 2019. The restrictions on the use of planning obligations being proposed through the white paper are far more significant and are likely to have a much greater impact on delivery. This was also the case with 'Planning Gain Supplement', which was a land value capture mechanism proposed as a replacement to S106 in 2006, but was not implemented.

There is a clear case for retaining, and enhancing, the current system of developer contributions, rather than replacing it with an entirely new and untested approach. This is considered further below.

Retention of S106 planning obligations

S106 planning obligations accounted for approximately 85 per cent of developer contributions in 2018/19 according to research published by the government⁴. Affordable housing accounts for the majority of the value secured (67 per cent). The white paper states that S106 planning obligations will be retained however 'the value will be captured through the Levy, rather than Section 106'. While the GLA welcomes the retention of S106 planning obligations, this should be retained largely in its current form so that necessary measures to mitigate development impacts to make a development acceptable can be secured. The value of planning obligations should not be offset against the Levy.

Site specific measures provided through planning obligations play an important role in unlocking and enabling the delivery of development. It is vital that planning obligations are retained so that the site-specific impacts of development are mitigated and to ensure that new development is deliverable and sustainable. This includes the need for planning obligations to provide for infrastructure

⁴ The Incidence, Value and Delivery of Planning Obligations and Community Infrastructure Levy in England in 2018/19.

MAYOR OF LONDON

delivered by strategic authorities that addresses the direct impacts of development and that is not funded through CIL and measures to minimise greenhouse gas emissions such as carbon offset contributions.

It is not clear how the value of 'in-kind' obligations would be separated out so that they could be addressed through the Levy. This could require the value of all obligations to be assessed so that this can be reconciled when the Levy is determined. The proposed approach is likely to result in a process that is more complex and inflexible, without removing the need for negotiations for on-site infrastructure. The new system will also result in greater risk and uncertainty for authorities and developers and be less capable of addressing site specific circumstances, than at present, which will restrict delivery.

It is important that planning obligations are retained without additional restrictions to ensure that measures that are necessary for a development to be acceptable can be secured and that development can proceed. As with the recently rescinded 'pooling restrictions', any additional restrictions would impede delivery and should not form part of the proposals.

Many authorities, including the GLA, have sped up the process of negotiating S106 agreements through issuing guidance and standard clauses, frontloading negotiations and introducing CIL. Developers and their representatives are also adept at negotiating S106 agreements. The government has recently introduced measures to limit the role of viability assessments in the application process, and the GLA has helped to achieve this through the introduction of the Fast Track Route for schemes that provide the relevant 'threshold level' of affordable housing set out in the new London Plan. The application process could be sped up further through effective implementation of these recent changes in national policy and guidance, and the London Plan. The Mayor would also be happy to work with government to better facilitate SME development.

Despite the important role that S106 agreements play in addressing development impacts, supporting delivery, and providing affordable housing, and site-specific mitigation, the white paper provides no indication as to how planning obligations could be secured under the new system where a plan establishes the principle of development and a planning application is not required. It is crucial that binding obligations for infrastructure, affordable housing and other requirements are established at the point that planning consent is granted to ensure that planning requirements are fully reflected in land values and to help mitigate land price inflation. More detail is needed on how planning obligations could be secured in such instances and what legislative changes would be required.

Where consent is granted through plans, these requirements could be secured through the wider use of standardised obligations and infrastructure charges, however this process would be less flexible and it would not be possible to account for every impact and

MAYOR OF LONDON

circumstance that could arise on different sites. For example, site specific transport mitigation measures often differ dependent on the nature, location and scale of the development.

Community Infrastructure Levy

CIL was introduced by the government to provide certainty, to help embed infrastructure requirements in land values and to address the cumulative impacts of smaller developments. It is set based on local market conditions and viability, which take into account profit levels which reflect market risk and the potential for variation in values and costs. Given that it is a fixed charge, it is typically set at a level which is the equivalent to a low proportion of development costs and values and is paid in instalments where the charging authorities have adopted an instalment policy and in staged payments for phased development. No evidence has been presented that CIL has made development unviable as a result of changing market conditions.

If the government were concerned about the impact of CIL on developer cashflow, the CIL Regulations could be varied so that it is paid at a later stage in the development process, rather than introduce an entirely new system. Recent changes to the CIL regulations have enabled this, as a time limited measure to aid SME developers during the Covid-19 pandemic. Delaying payment in its entirety to the end of the development process would however have significant disadvantages over the current approach as it would delay the delivery of infrastructure, and development. Because CIL is a standardised, non-negotiable charge, its retention under a new system could be relatively straightforward.

Mayoral CIL

The Mayoral CIL (MCIL) is working well in London with the Mayor working with the 35 Collecting Authorities to collect funds to deliver Crossrail. At the end of the 2019/20 financial year more than £743m had been collected and used to fund the project.

The white paper indicates that the MCIL will be retained. This is critical to delivering Crossrail and the repayment of financing borrowed to complete the project. Retention of the Levy that is ringfenced for transport will also provide scope to deliver other strategic transport infrastructure priorities which will help to support London's economy, housing delivery and other development. Without MCIL, the ability to deliver strategic transport infrastructure would be jeopardised.

MAYOR OF LONDON

If, however, MCIL forms part of the new Levy which is based on a proportion of development value, Levy liabilities for different types and locations of development will vary compared with the current system, which is charged on development floorspace. This, together with payment at the end of the development process, would raise significant risks regarding the level and timing of receipts to fund Crossrail and strategic transport infrastructure. A structural change in MCIL operations could put a strain on the GLA's finances and its ability to service Crossrail-related debt. The ability to repay the Crossrail debt must not be disadvantaged by a fall in revenue as a result of the proposed changes.

As such it is vital that the Mayor will retain responsibility for setting rates, that payment is not delayed until the end of the development process, that monies raised can be used to repay monies borrowed and that the amount of funding raised would be no less than what the Mayor is able to raise currently through MCIL2.

The proposed national Infrastructure Levy

The GLA has a range of in-principle and practical implementation concerns regarding the proposed Levy. These are set out here and in response to further consultation questions below, together with comments regarding the measures necessary to ensure a workable and effective system of developer contributions in London.

Deferring infrastructure payments to the end of the development

The white paper proposes that Levy contributions are made following occupation of a development. This would prevent authorities from funding upfront works that are necessary to enable development to come forward.

Deferring infrastructure payments to occupation of a development, rather than implementation (or implementation of phases) as with CIL, means that infrastructure and other measures that are necessary to support development will not be in place when it is occupied, unless authorities fund this themselves, which they are unlikely to be able to do. This would cause particular issues for complex regeneration sites and longer-term phased schemes which are often dependent on significant and assured infrastructure delivery. It is also contrary to the 'infrastructure first' commitment in the 2019 Conservative Manifesto and is likely to restrict delivery of development in London.

MAYOR OF LONDON

The timely delivery of infrastructure is vital to help ensure that local communities are supportive of and not resistant to new development. It is also key for developers making investment decisions because infrastructure forms an integral part of ensuring that developments are workable, attractive and marketable.

To address this, it is important that infrastructure contributions continue to be paid at an early stage in the development process and be payable on implementation or in instalments/on implementation of phases, as with CIL.

Basing the Levy on the final value of the development

Under this new method of calculating the Levy, the amount to be paid will not be known until the development has been completed and occupied. This will create uncertainty and risk for authorities in relation to the level of funding to be secured, and for applicants and funders regarding the financial liabilities of the Levy. Calculating the Levy this way will also result in different outcomes to those arising from planning obligations and CIL, which will vary for different types and locations of development. It is not clear that any analysis has been undertaken to understand and evaluate the impacts of this new process.

For market sale properties, the Levy could be based on the final transaction value, but for all other property including build to rent, affordable housing, commercial development and other uses, as well as in-kind planning obligations, this would require a valuation to assess capital value, introducing an element of valuer judgment and the potential for avoidance and dispute.

The white paper indicates that restrictions on occupation may be necessary to ensure that payment of the Levy is enforceable. Other measures are also likely to be required to safeguard against avoidance of the Levy, for example, through a developer not completing/occupying the final components of the development. However, it is not clear how this will be possible if the Levy is to be determined based on actual transaction values as purchasers will not pay for properties without the right to occupy. Enforceability is a fundamental issue for any tax or charging regime. If this were to result in the need to determine the Levy prior to occupation, a valuation process would be required even for market for sale housing, which could exacerbate the issues referred to above.

A robust process would be needed to assess the Levy liability requiring significant authority resources. While the current viability process only applies in cases where policy requirements are not being met, under the Levy proposals, this would be required in almost every case where the Levy applies. Notwithstanding the significant concerns referred to in this response, if the Levy were to be charged on the end value of a development, it is important to note that there would be even greater disadvantages in basing this on an assessment of the

MAYOR OF LONDON

uplift in land value. This would require a full residual valuation of the development proposal and assessment of benchmark land value for every case. This approach would be even more resource intensive, subject to greater valuer judgment and more vulnerable to avoidance issues (particularly given the sensitivity of residual valuation models to small changes in inputs), compared to an approach based on development value. Not only would full viability assessments need to be undertaken on many more cases than at present, by undertaking this at the end of the development process rather than before planning consent is granted, applicants are likely to be more incentivised to minimise liabilities, without any scope for the authority to take this into account when determining the merits of a proposal as a part of the application process.

A range of further issues arise from the Levy being paid at the end of the development process. It is not clear how payment will be made if the original developer sells a site before the development is occupied. A site could also be sold into several separate ownerships, as is common with major regeneration projects. If the Levy is payable as each individual building is occupied this could become complicated to monitor, calculate and administer.

Payment following completion of a development would also undermine the intention that the Levy is reflected in land values because in most cases the land will be transacted many years before the Levy is assessed. This highlights the need to ensure that consent is granted subject to the provision of infrastructure, affordable housing and other requirements to ensure that this is reflected in land values. Without this there is a risk of re-emergence of circularity issues which would arise if there is uncertainty regarding the Levy amount and a prospect that Levy liabilities could be limited, resulting in overpayments for land, which then encourage the use of avoidance techniques.

Furthermore, the proposals are silent on how the Levy is calculated under various development scenarios including: phased planning permissions, section 73 planning applications (minor material amendments), and section 96a applications (non-material amendments). The approach to dealing with the Levy for such permissions is likely to raise a range of further complexities and clarity is required regarding how these would be addressed.

There are significant disadvantages of basing the Levy on final development value, which will cause uncertainty, financial risk, rely on valuer judgement, delay infrastructure contributions and may not be enforceable. There are strong reasons for continuing to base contributions on development floorspace which reflects the scale of development and bears a closer relationship to the extent of development impacts and infrastructure needs arising from a development than development value.

MAYOR OF LONDON

A value-based minimum threshold

The white paper indicates that the Levy is not due to be charged on any values that falls below a minimum threshold, but it is not clear how this would be set or at what level. This approach would rule out contributions from small and lower value developments, which could significantly reduce affordable housing and infrastructure contributions in some areas and result in the cumulative impacts of smaller developments not being addressed.

The proposal that the Levy would only be charged on the proportion of value that exceeded the threshold is a significant change that will reduce contributions because affordable housing and infrastructure requirements are currently assessed on the scheme as a whole, where these are triggered.

If a minimum threshold is applied, this should be set in line with or at a similar level to the minor development exemption in the CIL Regulations to ensure that the cumulative impacts of smaller developments are addressed. Contributions should be assessed based on the whole development as is currently the case, rather than only on the proportion of value above the threshold, which would significantly reduce the level of contributions to support new development and affordable housing, particularly in areas with a higher proportion of smaller developments.

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

The rates should be set at a regional and local level. Setting the Levy nationally would remove the ability to take into account the extent of local need for affordable housing and infrastructure or the level of planned development in an area. It would also remove local decision making from the rate setting process and the ability of authorities to assess and balance the need for infrastructure funding and affordable housing with delivery and viability considerations.

As with CIL, it appears that the rate will be fixed and non-negotiable. However, unlike CIL, affordable housing and other policies, which are set locally, a single national Levy rate could not reflect the significant variation in development and land values across the country. This is particularly relevant for London where development values are typically much higher than the rest of the country, albeit with significant variation across the city.

MAYOR OF LONDON

The Levy would need to be set at a high rate to ensure that the level of affordable housing and other contributions that are currently secured in London are achieved through the Levy. However, a high fixed rate could put development on some sites at risk, for example where there are high abnormal costs. Setting a single national rate for London and rest of country would, in effect, impact adversely on all areas by reducing contributions in London and impacting viability elsewhere. Setting area-specific rates, which would allow some consideration of value differences, would still not take account of different viability characteristics which can vary within the same locality and depend on the nature of specific development proposals and site characteristics.

Setting the same rate for all use classes is also likely to be problematic given the variation in development values and viability for different uses, even if the rate is a percentage of development value. A single rate for all use classes would also not reflect the different policy requirements that currently apply for different uses and would raise particular difficulties for securing affordable housing given the higher level of 'value capture' required for this compared with current requirements for commercial and other non-residential developments. If affordable housing levels are to be maintained and the same Levy rate is to be set for all use classes, the charges for non-residential uses would need to be set substantially higher than is currently the case, but again this could affect viability. This could raise particular issues in town centres given the current impacts of Covid-19 and competition from online retailing.

For these reasons, it is important that the rates for developer contributions are set at a regional and local level, as currently for CIL and S106. This would enable authorities to take into account local circumstances, including infrastructure requirements and development markets, as well as different development types and uses. Where applicable, it would also take into account regional and sub-regional requirements, for example, strategic transport infrastructure required to deliver growth. In London, the GLA, TfL and boroughs already have significant experience of doing this through the development plan and CIL processes, and they continue to be best placed to determine appropriate levels of contributions that support the delivery of sustainable development.

If the government wishes to set a Levy nationally, this should be optional for authorities to adopt where they have not introduced CIL or wish to apply the national charge instead. Encouraging or effectively mandating adoption of a national Levy through restricting or removing other mechanisms would only serve to impede development, as with the S106 pooling restrictions. To do so for London would undermine the effectiveness of the system for other areas, given the rate that would be required to achieve the same or greater level of funding.

In terms of the form that this takes, the government will be familiar with the complexity of introducing new developer contribution systems at a national, regional and local level. The CIL Regulations have, for example, been amended multiple times to address the

MAYOR OF LONDON

significant number of issues that inevitably arise when establishing new ways of securing developer contributions to ensure that they work effectively and are capable of dealing with the wide range of circumstances that arise through different development and application types and across different areas. The introduction of an entirely new system would be highly disruptive at time when greater certainty is needed and would take many years to become established as with CIL.

To avoid this, there would be substantial benefits in basing any new nationally set Levy under the framework of CIL legislation and for authorities to retain locally set CIL. This would enable the government to introduce an alternative charging route for those authorities that have not been able to benefit from a locally set CIL, whilst overcoming the significant disadvantages of introducing an entirely new system with charges based on end development value. This would be faster, easier to implement and more effective, with the government and authorities able to draw on their existing experience and expertise of CIL.

As with CIL, a nationally set Levy should provide an alternative mechanism for securing infrastructure contributions for authorities that wish to adopt this. It should not replace planning obligations which are a more effective mechanism for addressing site specific issues such as transport mitigation, and securing affordable housing, which is considered further below.

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?		
---	--	--

While the ambition to capture more value is supported, the proposals do not refer to any evidence demonstrating how much revenue or affordable housing would be raised under the new system or why this would raise more than under the current system. Modelling undertaken by the GLA indicates that a nationally set single, or area-based Levy would result in significantly less affordable housing and infrastructure funding being secured than under the current system and would also prevent developments from being delivered, given that this could not take into account variations within local development markets and site viability. This is particularly significant for London given the difference in development values with the rest of the country and greater variation across London and by development type. The scale of potential impact is considered further below.

This would have a direct impact on the level of development delivered in London, whilst also undermining public support for development and confidence in the planning system.

MAYOR OF LONDON

The white paper provides no indication that the government have considered how revenue could be increased through enhancing the current system which would be more effective, with much less risk and disruption, and/ or by allowing authorities to adopt a nationally set charge in areas where CIL has not been adopted.

In justifying the new Infrastructure Levy, it must be clear that any changes to the current system would be capable of supporting the delivery of development, would raise more revenue and result in more affordable housing (in the tenures needed) in London than at present. The government should publish evidence which demonstrates that this is the case before any changes are made.

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

The Planning Act 2008 provides for authorities to borrow against CIL receipts, however this has only been enabled through secondary legislation for the Mayor of London. While the principle of allowing authorities to borrow against infrastructure contributions is supported, allowing borrowing against the Levy which is not received until a development has been completed would not incentivise authorities to deliver enabling infrastructure. Authorities would have to do this at their own risk and incur finance costs that would reduce infrastructure funding or be borne by the authority/ taxpayer. Where similar approaches have been explored previously by government, such as Tax Incremental Financing (TIF), there has been limited take-up due to the significant risks and practical implementation constraints. In the case of TIF, it is also relevant that this comprises of borrowing against projected increases in business rates. The does not affect existing business rate income, unlike the Levy which would replace established infrastructure funding sources with entirely new and uncertain revenue stream, which is a far riskier proposition.

The GLA's discussions with London authorities indicate that they are unlikely to be in a position to borrow, particularly given sustained reductions in government funding and the impact of Covid-19. Furthermore, it is not clear that it would be possible to secure funding when the amount of the final Levy is uncertain and could fluctuate significantly because it will depend on final development value and there is no guarantee that a scheme will actually be built out or occupied. This approach is likely to result in development that is not adequately supported by local infrastructure and/or it will undermine the delivery of development in London.

This should not be seen as an alternative to receiving payments on implementation of development (or implementation of phases) or other government funding for infrastructure. Notwithstanding the Mayor's position that infrastructure payments should continue to be

MAYOR OF LONDON

provided at an early stage of the development process, if this is not the case, the additional risks arising from the intention that authorities borrow against Levy receipts should be underwritten by the government who should meet any shortfall in funding if Levy receipts are less than anticipated.

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

Yes. The Mayor has previously set out his in-principle objections to permitted development rights which allow for changes of use to residential, which have resulted in a range of poor outcomes including substandard accommodation in inappropriate locations and undermining local economies through the loss of business premises. The proposal to require contributions for developments benefitting from permitted development rights would help to ensure that the impacts of these developments are mitigated. It would also put these developments on a more even basis with other proposals so that developers wishing to undertake comprehensive development are less likely to be outbid when acquiring sites. This should however be achieved by expanding the scope of S106 and CIL, as well as the Levy where an authority has decided to implement this.

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, however, securing affordable housing through a national or area-wide flat Levy is likely to be particularly problematic because this accounts for a much higher proportion of ‘value captured’ than infrastructure contributions which are generally a small percentage of development value. This is addressed through the current system by charging contributions for different types of infrastructure through CIL which is fixed, with affordable housing and site-specific mitigation measures secured through S106 agreements. These are more flexible and capable of securing affordable housing onsite and dealing with a range of considerations, such as the type, timing, affordability and delivery of the homes.

In London, the Mayor’s Threshold Approach to affordable housing sets clear expectations regarding affordable housing levels and incentives through the Fast Track Route, but enables schemes to progress with a lower level of affordable housing through the Viability

MAYOR OF LONDON

Tested Route where there are genuine barriers to delivery⁵. Changes have been made to national policy and guidance which together with Mayoral guidance have improved the process of viability testing.

The Levy rate would need to be set at a high level to enable the amount and tenure of affordable housing that is currently secured to be maintained. While the government's intention is to deliver at least as much if not more on-site affordable housing as at present, evidence has not been published to demonstrate that this will be the case and there is a significant risk that this will not be achieved because of the potential of a fixed charge to impact the delivery of lower viability sites. Modelling undertaken by the GLA indicates that the proposals are likely to result in a reduction in affordable housing in London.

A number of issues arise from the proposal that the Levy would be set as a fixed percentage of development value and that this would incorporate the provision of affordable housing. The first point is that there is a complex relationship between the Levy rate and the level of affordable housing and contributions that this equates to which will vary according to a range of factors such as residential and affordable housing values and the level of the 'value based minimum threshold'. A single Levy rate will result in a range of levels of affordable housing and contributions for different developments. Conversely, if the aim is to achieve a specific level of affordable housing and infrastructure contributions, the equivalent Levy rate will vary significantly depending on market and affordable housing values and the minimum threshold. This will make it difficult to both set the Levy rate based on known levels of affordable housing need and required levels of infrastructure funding, and to assess the level of affordable housing and contributions that would be delivered through a specific Levy rate.

The potential effects of the Levy on affordable housing and overall delivery in London have also been considered based on schemes that are referable to the Mayor, for which the most up to date information is available⁶. In 2019, 78 per cent of referable applications included 35 per cent or more affordable housing, with 37 per cent of all homes provided as affordable housing, with an average of 40 per cent affordable housing per scheme (by habitable rooms). This comprised of 50 strategic developments, with 21 schemes delivering 35 per cent affordable housing and 29 schemes providing more than 35 per cent.

Notwithstanding the difficulty of equating a specific level of affordable housing to a single Levy rate as referred to above, if a Levy rate was set with the intention of achieving, for example, 35 per cent affordable housing, plus infrastructure and other requirements, this would result in a potential loss of affordable housing from every scheme that would otherwise have been capable of providing more than

⁵ Policy H6 of the Intend to Publish London Plan (2019); Affordable Housing and Viability Supplementary Guidance (2017)

⁶ This relates to referable schemes that the borough or Mayor intend to approve.

MAYOR OF LONDON

35 per cent affordable housing. When calculated on a unit basis, this would have amounted to a loss of 4,189 affordable homes in referable schemes over the period 2016 to 2019. A fixed rate would also potentially have affected the delivery of the schemes that were found not to be viable with 35 per cent affordable housing, threatening the delivery of up to 82,544 units in referable schemes, including 18,767 affordable homes between 2016 and 2019.

Taken together, a single fixed rate at broadly 35 per cent could have resulted in an estimated loss of more than 20,000 affordable homes in referable applications over the last four years, with a much greater loss when non-referable developments are taken into account. This also excludes the potential impact of the intention set out in the white paper that the Levy would only be charged on the proportion of value that exceeded the proposed value based minimum threshold.

While the outcomes would differ through setting a different Levy rate, this would not overcome these issues. A lower rate may reduce the number of schemes that become unviable due to a fixed rate, but this would increase the number of 'foregone' affordable homes that could have been delivered through more viable developments. Conversely, setting a higher rate will achieve a greater level of affordable housing in more viable schemes but would potentially threaten the delivery of a greater number of developments.

Greater consideration could be given to development markets across London (and elsewhere) through setting variable area rates, but this would also not entirely overcome these issues because schemes which provide both higher and lower levels come forward in different value areas across London. This reflects that development viability is determined by a range of factors in addition to development values, with for example, surplus public land sites with lower existing use values, generally able to provide higher levels of affordable housing, whereas schemes with high abnormal or infrastructure costs may provide lower levels of affordable housing.

A further issue is how the Levy would apply to estate regeneration schemes where the London Plan requirement is to re-provide existing affordable housing and maximise delivery of additional affordable housing. A fixed Levy would not be capable of determining affordable housing requirements for estate regeneration schemes which vary from site to site depending on the existing level of affordable housing and the viability of the proposed redevelopment.

If the Levy resulted in the delivery of a lower level of affordable housing of the type and in the locations necessary to meet housing need, this would exacerbate the already substantial shortage of affordable housing in London, and the extent of homelessness and overcrowding. Homelessness in London has been increasing with 60,720 homeless households living in temporary accommodation at the end of March 2020, while 8.3% of households in London are overcrowded, which is one in five households with children, twice the rate in

MAYOR OF LONDON

the rest of England⁷. In 2019 there were 243,551 households on local authorities' housing waiting lists in London, the majority of whom are in significant housing need due to being homeless, occupying insanitary or overcrowded housing, or who need accommodation due to medical or welfare grounds and to avoid hardship⁸. There are direct equalities implications of the Levy proposals which have the potential to detrimentally impact households in housing need and those with protected characteristics as defined in section 149 of the Equality Act 2010.

A reduction in the provision of onsite affordable housing would also undermine the longstanding principle of delivering mixed and balanced communities which has been an important part of sustainable development and an objective of consecutive governments.

There are benefits to a fixed charge for infrastructure which should not be made negotiable or subject to viability which would result in uncertainty, liabilities not being reflected in land values and the potential for circularity and other forms of gaming. However, as with CIL, given the value differential between infrastructure contributions and affordable housing, the Levy is not capable of effectively dealing with the provision of affordable housing. As such, affordable housing should continue to be secured entirely through planning obligations and should be removed from the Levy proposals. Further reasons for this are set out in responses to other questions below.

If the level of funding secured through the Levy did not enable the delivery of the same or more affordable housing than is current secured, this would also exacerbate the risks to the availability of funds for other forms of infrastructure such as transport improvements required to accommodate growth.

It is also not clear how current levels of affordable housing will be assessed and whether this will be determined nationally or locally. The methodology applied in the government's recently published research on the value of planning obligations and CIL significantly underestimates the value secured in London and so this should not be used to assess the baseline position.

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 Levy would not be an effective mechanism to secure on-site affordable housing. If the provision of affordable housing is assessed in monetary terms as the in-kind delivery of the Levy, this would undermine the role of affordable housing in meeting housing need and the

⁷ Housing in London, 2020, the Evidence Base for the London Housing Strategy. These figures pre-date the impact of Covid-19.

⁸ MHCLG Table 600: numbers of households on local authorities' housing waiting lists (28 January 2020). These figures pre-date the impact of Covid-19.

MAYOR OF LONDON

importance of providing the level and type of affordable housing identified by authorities to address this. While the white paper states that this could be specified in policy, the rate at which the Levy is set could become the key determinant of the level of affordable housing provided. As referred to above setting a fixed Levy rate for affordable housing, infrastructure and other contributions is likely to be highly problematic.

The Levy would also not provide a mechanism to secure a range of important affordable housing delivery considerations which are currently addressed through S106 agreements, such as tenure, size, location, delivery timescales, occupation restrictions, affordability, eligibility criteria and nomination rights. The current proposals to ensure that affordable housing meets required design and quality standards are inadequate as these indicate that a developer could resort to a financial contribution through the Levy if an affordable housing provider did not wish to purchase the units. This would not incentivise the delivery of good quality affordable housing because the developer is likely to prefer to pay the Levy after the development has been completed, and to maximise the number of market units within the scheme. Conversely this could incentivise the provision of low-quality affordable housing or reduce the delivery of onsite affordable housing.

Assessing the equivalent Levy liability with reference to the difference between the open market value and value of the unit as affordable housing would require the valuation of affordable housing as market housing, again resulting in valuer judgement and the potential for dispute/ avoidance.

The alternative proposal of allowing first refusal for local authorities or affordable housing providers to buy up to a set proportion of on-site units would be a complex and resource intensive process compared with the current approach. Allowing developers to have discretion over which units were sold in this way would undermine the delivery of good quality affordable housing, which should be designed into the scheme with early engagement from registered providers and not offered up as an afterthought. Under this approach, developers would be financially incentivised to offer the lowest quality housing units for affordable housing, so as to maximise value in the scheme and disincentivise the delivery of onsite affordable housing.

The intention of enabling authorities and affordable housing providers to purchase a greater proportion of affordable housing in new developments, which would assist developer cashflow and help to de-risk development, is supported. However, this should be achieved by providing greater flexibility over other funding sources such as Right to Buy receipts and through higher levels of grant, rather than through the Levy.

MAYOR OF LONDON

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

The proposals to mitigate against overpayment risk would not be effective. The white paper states that the proposals transfer risk for the provision of affordable housing to planning authorities (and communities). This is a direct result of the intention to address affordable housing through the Levy and the option that developers could claim back payment from the authority if the 'value captured' through the affordable housing exceeds the Levy amount. Authorities could not take on the significant risk of having to pay developers significant financial liabilities, particularly given current severe constraints on local government funding. This would disincentivise them from securing affordable housing to the detriment of vulnerable households and those that cannot afford market housing.

The proposals for mitigating this by handing back affordable housing to a developer to sell as market homes, would undermine affordable housing delivery, support for development and trust in the planning system.

It is also not clear how an authority could give affordable housing units back to a developer that have been sold to an affordable housing provider and occupied by tenants or sold as shared ownership or First Homes. To avoid facing a substantial financial liability, the authority would have to retain the units (rather than sell them to an affordable housing provider) and leave them unoccupied until final occupation of the development when the Levy amount was established. In this scenario the affordable units could remain empty for years until the development has been completed and occupied. If the Levy liability was established with reference to completion of different parts of a development, this would still delay the provision of much needed affordable homes result in a much more complex system of securing and delivering affordable housing and determining and collecting the Levy.

Pushing back the sale of affordable housing units to an affordable housing provider to the end of a development or completion of parts of a development, would also weaken developer cashflow by delaying payments for the affordable housing which are normally provided at an early stage, helping to de-risk development increase build-out rates.

Even if the affordable housing units were left unsold and unoccupied to safeguard the authority's financial position, in the event of a downturn, if the market units could not be sold to compensate a developer for overpayment of the Levy, the authority could still incur a significant financial penalty. In addition, the value of the affordable housing is a component of the Levy calculation, but this would not be known if the affordable homes had not been sold to an affordable housing provider. In this case it would not be possible to calculate the Levy.

MAYOR OF LONDON

There is also a risk that a developer could set up (or acquire) an affordable housing provider, sell the affordable homes to that provider at a low cost, maximising the discount to market value and the 'in-kind' contribution, in order to minimise the Levy liability. The affordable housing provider could then rent or sell those homes to occupiers at a higher value and retain the difference in value.

As such, if the in-kind delivery approach is taken, it would be crucial that the right for any repayment for affordable housing (or any other planning obligations) is excluded. It is important that affordable housing provision cannot be reduced at a later stage which could arise through treating it as the in-kind delivery of the Levy. This is contrary to the principle that development risk is reflected in developer's returns which are typically much higher than for other forms of investment classes and that it is not the role of the planning system to protect developers' returns⁹.

As set out above, there are a number of fundamental reasons why affordable housing should not be treated as the in-kind delivery of the Levy. To ensure the delivery of and quality of affordable housing, it is vital that authorities are able to set out requirements relating to the provision of affordable housing as part of the plan process and for these to be legally binding commitments that form part of a planning permission and that cannot be eroded at a later date. The role of Strategic Planning Authorities in promoting a clear and consistent framework for affordable housing delivery on a regional basis is also important and should be recognised in the proposals.

Planning obligations remain the most effective mechanism for achieving this and should continue to be the sole means through which affordable housing is secured, with the Levy dealing with infrastructure contributions.

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?		
---	--	--

Notwithstanding the Mayor's position that affordable housing should not be treated as the in-kind delivery of the Levy, if this were the case, a mechanism would still be required to ensure that affordable housing of the required tenure and quality is secured and delivered. The government should confirm that planning obligations should continue to be used for this purpose which remain the most effective means of achieving this.
--

⁹ This is also in line with the current legal framework in which planning obligations cannot be changed without the express agreement of the authority within the first five years following the grant of planning consent.

MAYOR OF LONDON

25. Should local authorities have fewer restrictions over how they spend the Infrastructure Levy?			
25(a). If yes, should an affordable housing 'ring-fence' be developed?			
<p>Allowing Levy receipts to be spent on items that are not linked to development such as other services and reducing council tax would exacerbate the infrastructure funding gap that exists in most authority areas and reduce the delivery of affordable housing and other measures that are necessary to make development acceptable and enable it to proceed. This is likely to undermine delivery and will impact on areas' ability to meet housing targets. By reducing funding for affordable housing and infrastructure delivery, the proposal to allow the Levy to be spent on reducing council tax is also likely to result in communities that are located near development being more adversely impacted with negative equalities implications.</p> <p>Given existing infrastructure and affordable housing funding shortfalls, the expenditure of developer contributions should be limited to infrastructure, affordable housing and other obligations that support the delivery of development, rather than unrelated items. Notwithstanding the Mayor's position that the Levy would not be an effective mechanism to secure affordable housing, if this were to be dealt with under the Levy, minimum affordable housing requirements should be set at the local and regional level to ensure that funding is ringfenced and available to address local needs.</p> <p>While the retention of a Mayoral CIL is critical for the delivery of Crossrail for the reasons given in question 22a, there is need for wider recognition of the important role that transport infrastructure and mitigation play in delivering sustainable growth. In view of this funding should also be ringfenced for transport other than Crossrail. <i>Further details are included in the attached consultation response by TfL.</i></p>			
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?			
<p>It is extremely disappointing that the government has not set out how it has given due regard to its Public Sector Equality Duty, particularly given the potentially significant implications of some of the proposals. The GLA would welcome the chance to review any associated draft or completed Equality Impact Assessments in relation to this consultation.</p> <p>The Mayor welcomes the government's commitments to increasing local participation in planning, broadening access and improving accessibility, accountability and transparency. The government's commitment to meaningful engagement is also welcome. However, the government has not set out in enough detail how the proposals will be achieved in practice and does not provide enough assurance that</p>			

MAYOR OF LONDON

there will be no direct discrimination on protected groups. The Mayor is concerned about negative impacts on the following groups protected under the Equality Act 2010:

- Age (children and older people)
- Disability (e.g. people affected by sight loss, Deaf people, people with learning difficulties, wheelchair users, and people with hidden disabilities)
- Gender reassignment
- Pregnancy or maternity
- Race
- Religion or belief
- Sex
- Sexual orientation

We also believe that there will be negative impacts for people on low incomes.

The GLA has identified equality impacts on protected groups, which are summarised below.

A focus on digital engagement alone may negatively impact groups who are less likely to be online, including older people and disabled people, people on low incomes, such as women, Black Asian and minority ethnic groups such as Gypsies and Travellers, as well as people in areas of poor digital connectivity. For example, options should be available for people to make representations who aren't online. It is key that options are available for people who are less likely to be online to engage and participate.

The time and resources allocated for engagement is insufficient to ensure meaningful engagement, particularly with groups who are less likely to be online, people who need information in accessible formats and people who may need additional support to engage. The opportunities for people to engage throughout the process is limited, and the Mayor would welcome guidance from the government to support meaningful engagement, including the use of equality monitoring questions to broaden access to planning. The Mayor is also concerned that those areas that are most likely to be designated 'growth areas' in an urban context are those where the local community may have the least capacity to engage with local planning authorities within the tight timescales proposed, and this will significantly reduce their role in shaping their neighbourhoods with involvement front-loaded to the plan-making stage and limited to just 6 weeks.

MAYOR OF LONDON

The potential removal of the right to be heard by planning inspectors could mean that concerns from protected groups are missed. Furthermore, the removal of the potential for modifications to be made between the draft local plan consultation and submission of a local plan to planning inspectors reduces a local communities democratic right to review and comment on local plan's risking the robustness of the local plan consultation process.

There is a lack of accessible information and communication formats for people with disabilities, groups with low literacy rates, such as Gypsies and Travellers, and people who speak limited or no English, which may particularly impact people from Black, Asian and minority ethnic backgrounds. Local plans that are visual, map-based and colour coded need to be accessible for people affected by sight loss for example. Events need to include British Sign Language interpretation and speech-to-text reporting for people who are Deaf and easy read information needs to be provided for people with learning disabilities.

Delays in development caused by the fundamental changes to the planning system could negatively impact on protected groups reliant on affordable and accessible housing, including older people, disabled people and low-income groups such as women and Black, Asian and minority ethnic groups.

Reduced social and physical infrastructure provision potentially due to the introduction of the new National Infrastructure Levy could negatively impact older people, young people, disabled people, people with small children and people on lower incomes, including women and people from Black, Asian, and minority ethnic backgrounds. Disabled people, older people and people on low incomes may have to travel further for medical appointments and face higher travel costs and longer waiting times. Special educational needs children may have to travel further to schools and school places may be limited, negatively impacting families with small children. Overcrowding could act as a barrier to the use of public transport by older people, disabled people and pregnant people. Reductions in social infrastructure could negatively impact women who tend to provide more informal care.

The Mayor is very concerned that the proposals could result in a reduction in accessible housing in London, which could negatively impact older people, people with disabilities, people who are pregnant and people with small children. Across Britain, disabled people face a shortage of accessible and adaptable homes and long delays in making existing homes accessible (Equality and Human Rights Commission, 2018). There is a concern that access and inclusive design principles could be compromised, for example by insufficient consideration early on and in the concept of 'beauty'. With the removal of s106 agreements, there would also be no mechanism to manage the wider impacts of development and prioritise protected groups, for example people that need accessible housing having first opportunity to buy or occupy those units.

MAYOR OF LONDON

The Mayor has set out above this concerns that there could be a reduction in affordable housing in London, for example by developers being able to switch from affordable to market provision during economic downturns, which could negatively impact people with disabilities and low-income groups, such as women and people from Black, Asian and minority ethnic backgrounds. There is a concern that affordable housing could also be moved to low-value areas (for example, from Alternative option 4.25), leading to the segregation of low-income groups. Any reduction in the standards for energy performance of new buildings may disadvantage low-income groups. A reduction in affordable housing may also reduce the amount of accessible housing in London.

If the Levy resulted in the delivery of a lower level of affordable housing of the type and in the locations necessary to meet housing need, this would exacerbate the already substantial shortage of affordable housing in London, and the extent of homelessness and overcrowding. Homelessness disproportionately affects ethnic minorities, lone parents (approximately 90% are women), young care leavers, young offenders, LGBT young people, transgender people, people with mental health conditions, women at risk of domestic abuse, ex-services personnel, and those living in material deprivation (EHRC, 2018). For example, between 2006/07 and 2016/17, people from ethnic minorities accounted for 28.4% of all homeless households in England (Cabinet Office, 2017) compared with 14% of the population of England and Wales from an ethnic minority background (ONS, 2012). Of homeless households in 2016/17, 16% were Black, 9% were Asian, 3% were from a Mixed ethnic background, and 5% were from other ethnic minority group (Cabinet Office, 2017). 47% of all households accepted as statutorily homeless in England in 2017 were lone parent households headed by women, and a further 10% were single women (MHCLG, 2018d). Around 128,000 children in Britain were homeless in 2017, the highest figure in a decade (Shelter, 2017). Those recently granted refugee status are at a high risk of homelessness also (All Party Parliamentary Group on Refugees, 2017). Furthermore, in England, people from ethnic minorities, women and disabled people are much more likely to live in overcrowded accommodation. For example, one in 10 (10.5%) ethnic minority households experienced overcrowding compared with one in 50 (2.0%) White households (EHRC, 2018). In England in 2015/16, women Household Reference Persons (HRPs) were more likely to experience overcrowding (3.7% compared with 2.5% of men) and for women from ethnic minorities, the percentage was higher than any other combination of sex and ethnicity at 13.2% (EHRC, 2018). For disabled HRPs or those with long-term illnesses, 3.4% lived in overcrowded accommodation compared with 2.8% of non-disabled HRPs (EHRC, 2018). Therefore, any reduction in affordable housing from the government's proposals and increase in homelessness or overcrowding would particularly impact protected groups, such as ethnic minority women.

Changes to the sustainable development test could negatively impact on people's health and exacerbate health inequalities. Physical and mental health outcomes are already significantly worse for homeless people, transgender people, Gypsies, Roma and Travellers, refugees

MAYOR OF LONDON

and asylum seekers and people with learning disabilities, linked to poorer socio-economic outcomes for these groups (EHRC, 2018). If economic and social aspects, such as active travel, air quality, sufficient space for families to live and for children to play for example, are not taken into account during plan preparation, protected groups could be negatively affected, including people with disabilities, children and young people, people from Black, Asian and minority ethnic backgrounds and LGBT people.

The government hasn't set out how access and inclusive design principles will be considered early on, including in national and local design codes, which could negatively impact older people, people with disabilities, children and people with small children. Older people and people with disabilities are particularly affected inaccessible facilities and public realm for example.

There appears to be a reduction in equality considerations under the government's proposals. It is important that Design and Access Statements are maintained and developed early on to encourage applicants to consider equality impacts in a meaningful way. Furthermore, the London Plan Inclusive Design policy D5 is critical to how the Mayor describes our approach to the public realm and inclusive buildings in London. The London Plan policy D7 on Accessible Housing also goes further than Planning Practice Guidance in requiring that 10% of new residential development meets M4(3) 'wheelchair user dwellings' and the remaining meets M4(2) 'accessible and adaptable dwellings', regardless of whether or not the local authority is responsible for allocating or nominating a person to live in that dwelling. In addition, in London Plan policy H14 Gypsy and Traveller accommodation, boroughs are expected to plan for Gypsies and Travellers' accommodation needs. Embedding equalities in the development of local plans is key to ensuring resilience and a forward-thinking approach, which is critical to London's recovery to Covid-19.

Furthermore, new London Plan policy S4 Play and Informal Recreation requires that developments where 10 or more children and young people are expected to live should make appropriate play and informal recreation provision, with formal play provision of at least 10 square metres per child required. Children's play space should be accessible to all tenures, and children and young people are expected to be consulted in the design of place space and the needs of parents and carers considered. Boroughs are encouraged to collaborate in the development of place space strategies to help create child-friendly neighbourhoods across borough boundaries. The government's proposals could negatively affect the amount and quality of play space and access across tenures, with children and young people from low-income households particularly negatively affected.

In addition, new London Plan policy H13 Specialist Older Persons Housing aims to ensure boroughs plan proactively to meet the accommodation needs of older Londoners, with annual borough benchmarks included to inform local level assessments. The government's proposals could negatively impact the amount and quality of specialist older people's housing for Londoners, with negative

MAYOR OF LONDON

impacts for older and disabled people, including people living with dementia, as well as working-age people who may benefit from this accommodation in the future.

There is a concern that changes to the listed consents process could negatively impact older people, disabled people and people with small children, for example, if not enough consideration is given to access and inclusion, access to private amenity space and open space and housing mix. Furthermore, the use of these spaces by protected groups, such as LGBT+ people and people who have a religion or belief may be negatively affected. In addition, we are concerned about the impact of increased enforcement powers from encampments on Gypsies and Travellers. The need to plan for sufficient pitches is key to addressing insufficient overall provision, which can lead to a rise in unauthorised encampments, with implications for the health and wellbeing of Gypsies and Travellers, community cohesion and costs for boroughs. In addition to permanent sites, suitable short-term sites are an important component of the suite of accommodation for Gypsies and Travellers. The GLA is working on a [‘negotiated stopping’](#) approach in London as a way of minimising the number of unauthorised encampments.

The GLA would be happy to provide evidence, including from the [GLA Datastore](#), to support understanding of equality impacts on protected groups from the government’s proposals. As proposals are developed, the Mayor would expect the government to highlight how equality impacts have been considered and would be happy to support understanding in this area, including facilitating engagement opportunities with protected groups in London.

Emerging Resources and Skills Strategy

The white paper refers to emerging Resources and Skills Strategies. The Mayor welcomes this and in principle strongly supports additional funding to resource LPAs in particular during the transition to a new planning system. The following further points should also be considered in relation to that Strategy:

- There is a risk that [income from applications](#) falls if permissions are granted through the plan-making system, which itself could be more resource-intensive. Consideration of planning applications and any variation from prescribed design codes should all be considered by the LPA (and Mayor where relevant) on a full cost recovery basis.
- The pre application process is a very effective tool for engagement between applicant teams, the LPA and other stakeholders including the local community. However, it is very resource intensive (particularly when using a Planning Performance Agreement) and any [future fees](#) have to reflect the resource involved. National Benchmarking is not considered particularly useful in this respect, as it may

MAYOR OF LONDON

not necessarily reflect the costs of bringing complex sites forward, particularly in large urban areas where there will be a wide range of issues that need to be addressed.

- The government's intentions to fund the wider planning system through the future Levy would reduce the availability of funding for infrastructure and affordable housing delivery and/ or could result in a shortfall in funding for planning services which will require significant additional resourcing to put in place the proposals in the white paper. The Levy should be ringfenced for infrastructure and other measures that ensure that development is acceptable and sustainable.
- The proposals for a performance framework for continuous improvement for LPAs could be effective, but there are many reasons for poor performance and any proposals should not result in any further financial burdens or resource implications where authorities are already struggling to meet their commitments, as this could exacerbate frustration amongst local planners.