

<b>Committee:</b>	<b>Date:</b>
Hampstead Heath, Highgate Wood & Queen's Park Committee	25 November 2020
<b>Subject:</b>	<b>Public</b>
Planning White Paper	
<b>Report of:</b>	<b>For Information</b>
Remembrancer and Director of Open Spaces	
<b>Report Author</b>	
Philip Saunders, Parliamentary Affairs Counsel	
<b>Summary</b>	
<p>Overall reform of the planning system and the protection of green and open spaces are the two themes within the scope of the Government's Planning White Paper, 'Planning for the Future'.</p> <p>The White Paper proposes the creation of three land classifications. 'Growth' areas where land will be deemed suitable for substantial development; 'Renewal' areas suitable for some development; and 'Protected' areas, which will be subject to strict rules on development.</p> <p>Hampstead Heath's designation as Metropolitan Open Land (MOL) offers protection analogous to Green Belt. MOL is not, however, specifically referenced in the White Paper.</p> <p>Accordingly, City Corporation responses have been submitted to the White Paper, in consultation with the Director of Open Spaces. This Report follows the points made in that submission, a copy of which is annexed. The submission has been made subject to any further observations which members of this and the other committees dealing with open spaces might wish to make.</p> <p><b>Recommendation</b></p> <p>The Committee is invited to note the contents of this report and to consider whether any additional observations should be made to the response to the White Paper.</p>	

## Main Report

### **Background**

1. The White Paper was introduced by the Prime Minister as the most "radical" set of planning reform proposals since the Second World War. The promotion of design concepts to promote "building beautiful" attracted most attention.

2. Under the proposals, which are dominated by changes to the house-building system, land will be classified as 'Growth', 'Renewal' or 'Protected'. Growth areas will be regarded as suitable for substantial development, and where outline approval for development would be automatically secured for forms and types of development specified in the Plan. Renewal areas would be suitable for some development, which the White Paper exemplifies as "gentle densification". Protected areas would be framed so as to protect green, open and heritage areas.
3. Much of the rationale underpinning the White Paper is concerned with increasing housing supply. Arising from findings by the Building Better, Building Beautiful Commission, that often buildings are of low quality and considered ugly, some effort at amelioration is contained in the concept of 'building beautifully', which was to have been championed on the Government's behalf by Professor Sir Roger Scruton. Nicholas Boys Smith of the think tank Create Streets took on the project following Sir Roger's death.
4. The White Paper indicates that there will be further consultation on environmental protections.
5. The proposals are of interest to the City Corporation as guardian of green spaces such as Hampstead Heath and as a local planning authority.

### **Political Commentary**

6. Secretary of State for Housing, Communities and Local Government Robert Jenrick described the White Paper as intended to "support the delivery of the number of homes we need as a country, but homes that local people want to live in, with more beautiful, safer and greener communities". If implemented, the proposals would result in a "dramatically accelerated planning system", he said. He warned planning authorities that his Department would "intervene" if Local Plans were not in place by December 2023. Minister Chris Pincher insisted the proposals put "the creation of beautiful places at the heart of national planning policy, encouraging greater use of design codes based on what people want to see in their area, supporting local authorities and directing Homes England to help deliver that".
7. Labour's John Healy agreed the planning system was in need of reform but described the Government's approach as a "threat to give big developers a freer hand to do what they want, ignoring quality, affordability and sustainability". Matt Western (Lab) described the proposals as "a developers' charter, giving them sweeping power to build poor-quality homes and, importantly, avoid commitments to build truly affordable social rented homes". Chair of the MCHLG committee, Clive Betts (Lab) welcomed the consultation as an overdue examination of the planning system.

## The White Paper

8. The City Corporation cares for green spaces such as Hampstead Heath which are of considerable historical, cultural and ecological significance, noted most recently in Forestry Commission's London Tree and Woodland Awards. Hampstead Heath and other areas are designated as Metropolitan Open Land (MOL). The City also cares for sites of international importance and renown, including Epping Forest Special Area of Conservation (SAC) and Burnham Beeches SAC and Sites of Special Scientific Interest (SSSI).
9. The White Paper propositions substantial changes to planning rules. Of interest to your Committee is the creation of a category of land that would be subject to "more stringent development controls" due to particular environmental and cultural characteristics, defined as 'Protected' land.
10. Areas to be regarded as Protected are not described in detail and no definition is provided. Instead, the White Paper gives examples, including Green Belt, Areas of Outstanding Natural Beauty, Conservation Areas, Local Wildlife Sites, "important areas of green space" and gardens, in line with existing policy in the National Planning Policy Framework. The proposals indicate gardens could fall within the Protected classification, alongside "important areas of green space environmental and/or cultural characteristics". The proposals would allow Protected areas to be defined nationally and locally. Local Plans would indicate such areas.
11. Although the scope of Protected areas appears to include a wide variety of open and green spaces, which seem most likely to encompass the Heath and other City green spaces, their inclusion is not entirely clear.
12. Relevant to the City Corporation's guardianship of Hampstead Heath, the submission has highlighted the following matters
  - a. If the proposals on land designation are adopted, the examples of the Protected classification should be expressly extended to include MOL and other important green areas. Paragraphs 14, 18-19, 25-26 of the White Paper responses
  - b. The Government should make provision for existing protections for green and open spaces to be automatically carried over to the proposed Protected areas, so as to avoid any attrition on such areas during the transition to the new arrangements, in paragraphs 17, 24-26
  - c. The ecological, societal and cultural importance of Hampstead Heath, in paragraph 18

- d. MOL is a classification particular to London and, to ensure it is not overlooked in the national reconfiguration of land classification, should be referenced in the Government's approach, in paragraphs 20-21
- e. The importance of protecting MOL in the context of proposals to set local housing allocations at a national level, in paragraphs 22-23
- f. That the proposed housing formula should recognise constraints on building, such as in the case of green spaces, in paragraph 27
- g. That further consultation will be required regarding the development of further guidance on conserving heritage assets, which should involve Historic England, other heritage organisations and Local Planning authorities, in paragraph 75.

## **Conclusion**

- 13. Officers will continue to find and create opportunities for pressing the interests of Hampstead Heath and the City Corporation's other green spaces, including select committee inquiries. Further committee Reports will be presented as required.
- 14. The Open Spaces Grand Committee and other site-specific committees will receive reports tailored to their interests. The planning aspects of the White Paper have been reported separately.

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## **ANNEX**

### **The Planning White Paper “Planning for the Future”**

#### **Response from the City of London Corporation**

#### **Submitted by the Office of the City Remembrancer**

#### **Introduction and Background**

1. This consultation response firstly explores the White Paper’s proposals regarding green spaces and the Protected designation and, secondly, sets out the City Corporation’s views on individual planning proposals. A summary of the City’s key messages is contained in the conclusion.
2. The City Corporation’s historic development has resulted in it being responsible for the protection and management, by charitable trust, of almost 11,000 acres of highly important open space. Within this acreage, the City Corporation manages one of the largest assemblages of ancient woodland under single care and looks after one of the largest groups of ancient trees.
3. This land is situated across London and the Home Counties; much of the land is outside the City Corporation’s area.
4. The Square Mile has approximately 200 small park and garden areas, churchyards and landscaped sites. The plant and animal life enhances the local environment and contributes to the City being a welcoming place to live and work.
5. Among the spaces located outside of its geographic area, the City Corporation cares for green spaces that are of international importance and renown, including Epping Forest Special Area of Conservation (SAC) and Burnham Beeches SAC and Sites of Special Scientific Interest (SSSI). Hampstead Heath and other areas of considerable historical and cultural significance are designated as Metropolitan Open Land (MOL).
6. The City Corporation has, therefore, a central objective of protecting and conserving the ecology, biodiversity and heritage of its open spaces.
7. The City of London Corporation is the governing body for the ‘Square Mile’ and is the planning authority for the geographical square mile at the heart of the Capital. The City Corporation’s role as Local Planning Authority, includes responsibilities for all aspects of land use planning, the preparation of the Local Plan, the determination of planning applications and the designation and operation of s106 planning obligations and the Community Infrastructure Levy.
8. The City of London is a globally important financial and business district, and as such is subject to distinctive planning considerations. The Government’s drive to

improve the supply of housing is laudable, but it is important to make sure that the White Paper's proposals do not inadvertently undermine the protections in place for commercial areas such as the City. The Square Mile has a particularly high scale and density of office-led development, required to sustain the critical mass of commercial activity which drives the City's success, and which makes a significant contribution to the UK's GDP. With this comes a need to exercise careful control over the location of new residential development, in a way that may not be the case elsewhere. Such control is necessary in order to maintain the concentration of commercial premises and preserve redevelopment potential (which could otherwise be prejudiced by long residential tenancies).

9. The special considerations applying to the City are recognised in the planning framework. The City's Local Plan contains specific protection against the loss of suitable office space and resists residential development inappropriate to the City's commercial character. This approach was endorsed by the Planning Inspector appointed to consider the compatibility of the Local Plan with national policy. The London Plan, meanwhile, specifically acknowledges that the balance between homes and offices should be adapted "to sustain strategically important clusters of commercial activities such as those in the City of London" and that residential development is inappropriate in the commercial core of the City.
10. This does not mean that the City Corporation is unsympathetic to the need to deliver more housing. Indeed, the Corporation recognises housing as one of the most pressing issues facing London's economy. The planning considerations described above mean that most of the City Corporation's contribution will necessarily be made outside the boundaries of the City (whether on its social housing estates in neighbouring London boroughs or on other land). Limited housing development may be possible within the City, but only on smaller sites in carefully defined areas away from core commercial activity.
11. There is no reason why national planning policy cannot combine a general objective to promote housing with sensitivity to the particular needs of leading commercial districts such as the City. The consultation, however, over-concentrates on housing; more consideration should be given to other forms of development, for example, development necessary to support economic growth, social and community facilities, open and green space and mitigating and adapting to climate change. This approach requires careful drafting, with potential unintended consequences borne in mind and suitable flexibility incorporated where needed.

## **Pillar 1: Protected Areas and planning for development**

### **Proposal 1: The role of land use plans should be simplified.**

#### ***Protected Areas***

12. The commitment recorded in the White Paper in relation to a further consultation on environmental protections is welcomed. The proposals in the present

consultation affect environmental protection matters to such an extent, however, that the totality of the issues should be considered together, not separately.

13. The White Paper's proposal to create a Protected category of land is welcomed but must be placed in the context. In the last 40 years there has been a decline of over 60% in native species. The abundance of important wildlife groups such as pollinating insects have fallen by similar percentages.
14. The City Corporation is particularly concerned, therefore, that the White Paper does not list all significant categories of green space as being within the Protected category. The proposals identify, for example, some nationally significant designations such as Green Belt (GB) as intended to be within the Protected category but fails to identify designations of some of the most important sites for nature conservation. For example, although the consultation refers to Sites of Special Scientific Interest (SSSIs) in relation to looking back on past achievements of the existing planning system, there is no explanation of the vital importance of these sites for the future. There is no reference to Special Areas of Conservation (SACs) or Special Protection Areas (SPAs) in the White Paper despite these sites forming the bedrock of biodiversity protection in the UK, granted the highest legal protection through the UK Habitats Regulations 2017 (as amended) and the Bern Convention (1979). The consultation seems not to take into account recent planning inspectorate decisions which emphasise that these protections are crucial to tackle the vulnerability, from nearby developments, of sites such as Epping Forest SAC.
15. The City Corporation protects two such internationally important sites at Burnham Beeches and Epping Forest and has invested significant time and resources in their enhancement and protection over more than a century. In Epping Forest, for example, the City Corporation protects more ancient trees than any other site in the UK. Together, the two sites protect over 80% of all ancient beech trees in the UK and are amongst the most important woodland sites of their kind in Europe.
16. As with the international sites at Epping and Burham, the City Corporation protects a number of SSSIs, and has enhanced their protection through on-site management over many decades. Where possible, in two crucial respects, the City goes further in its care for such sites. We aim to establish buffers around the sites so as to protect from encroachment and our approach seeks to link sites to wider areas of nature conservation value. These measures protect the sites and ensures they do not become isolated. Examples of these additional lands include ancient wood-pastures and chalk grasslands, threatened habitats vulnerable to isolation and attritional losses from the impacts of urbanisation along their boundaries.
17. The issue of networks of open spaces is of vital importance for nature conservation and biodiversity yet is not discussed in the White Paper. While the White Paper references to environmental recovery and long-term sustainability are welcome, there are no proposals to halt and reverse the fragmentation of green spaces, the unprecedented losses of wildlife and green space. There is a danger that the division of the UK into Growth, Renewal and Protected zones could further divide and fragment wildlife sites.

18. One of the most important omissions in the White Paper is Metropolitan Open Land (MOL). MOLs are crucial to biodiversity and wellbeing in urban and suburban areas, they provide green space for leisure as well as environmental benefits. Hampstead Heath, for example, is cared for by the City of London Corporation and is almost entirely designated as MOL. While the consultation appears to envisage the Protected category would include MOL as being within 'important areas of green space environmental and/or cultural characteristics', the lack of clarity could lead to unnecessary doubt and pose a real threat to the integrity of areas designated as MOL.
19. The consultation may be silent on MOL because of an implicit recognition that the safeguards presently associated with Green Belt apply, in broad terms, to MOL. The importance of MOL is sufficiently substantial, however, that its inclusion within the Protected designation should be specifically clarified at the earliest possible stage.
20. A further reason why it is important to identify MOL as within the scope of Protected areas is because designation as MOL is rooted in Local and Regional Plans, and has historically been a London policy designation, reflecting the importance of large open spaces within London for the provision of recreation, and nature conservation.
21. Specific MOL designation is also important to ensure protection in those instances where particular open spaces which merit protection straddle Borough boundaries (as is the case with the wider area of The Heath).
22. The importance of inclusion of MOL within the Protected designation takes on added significance when considered in the context of the proposals to change the way in which housing allocations and obligations may be configured. As explained in subsequent paragraphs, if the proposals in relation to housing were to be brought into effect, unchanged, authorities could come under substantial pressure to build on all land not specifically identified as Protected. This could cause substantial harm to local environments in urban and suburban areas.
23. Further, the lack of specific inclusion of MOL within the scope of the Protected designation leaves open a high degree of qualitative assessment of open spaces at a local level. Authorities may come under severe pressure to re-assess areas of MOL so as to release land to comply with the way in which the White Paper envisages house building obligations will be set in the future.
24. Of substantial concern to the City Corporation is the omission of reference to ancient woodlands and ancient trees outside woodlands. These, by their very nature, are irreplaceable habitats and ancient trees outside woodland are also vulnerable as they would not fit easily into framework proposed in the White Paper of strict area zoning. Care must be taken to ensure the proposed changes in this White Paper do not undermine the recent strengthening of protection afforded by the updated National Planning Policy Framework. Ancient woods and trees also require buffering by Protected land around their current boundaries.

25. The inclusion of Local Wildlife Sites (also known as SINCs) within the examples of Protected places is welcome. These sites are, however, currently non-statutory designations set out in Local Plans. Local Wildlife Sites could be at risk of development as a result of pressure on land generated by the way in which the proposals envisage house building allocations would be set in the future. The Government should clarify what measures it will take to preserve the designation of such sites during the change from current protections to Protected area status. Consideration should be given to automatically designating Local Wildlife Sites, and similar, as Protected areas, without the need for any local re-assessment, change in designation or attribution in a Local Plan.
26. Many green spaces do not carry a statutory or nationally protected designation. Despite the lack of designation, such spaces are likely to have substantial historical importance and high value locally. Examples include gardens and greens maintained by local authorities. Certain places may be identified as having local Conservation Area status in Local Plans – but these are potentially vulnerable to being left out of the proposals in the White Paper. It is acknowledged that the consultation states that protection can be offered in the National Planning Policy Framework but, as set out under in response to ‘proposal 2’, the weight proposed to be given to NPPF remains open to doubt. At this level of planning arrangements, much needed protection would be given to gardens, greens and similar spaces, where they have no alternative safeguard, if those categories benefited from an enhanced level of protection, perhaps modelled on the statutory framework applicable to other open spaces.
27. The indication, at a ministerial level, that the housing formula would be revised to recognise existing constraints on building (such as Green Belt designation) is to be welcomed. The housing formula should be framed as guidance, so that it can be interpreted locally, rather than as a prescription. For instance, the proposals should go further and, as a minimum, factor in protections for buffer land which are protective of and adjacent to SAC and SSSI sites. This approach would be in line with the White Paper’s desire to simplify and rationalise the approach to planning. By offering authorities comprehensive guidance on development exclusions zones around SACs and SSSIs, a clear minimum standard would be established for authorities to follow.

### ***Planning for Development***

28. Allocating land to one of 3 designations (Growth, Renewal, Protected) in a central urban area such as the City of London, where there are multiple, overlapping planning, heritage and environmental designations, often on individual sites, is likely to present substantial problems. The proposed simplification of land use allocation is particularly unsuited to areas with complex heritage and other constraints. It seems likely that most urban and rural areas will face the same difficulties.
29. Applying the White Paper’s proposals to the City of London, for example, would require a site by site analysis to determine the appropriate land use designation.

The City's complex framework including 27 conservation areas, over 600 listed buildings and strategic and local views protection policies, mean that land allocation is likely to be a complex and time-consuming process. Even those parts of the City that have seen significant development in recent years, such as the City Cluster of tall buildings, have a complex pattern of heritage and other constraints and the proposals would not be sufficiently sophisticated or flexible enough to meet the needs of such areas.

30. The greater certainty of development attached, for example, to a Growth or Renewal area designation would require a close assessment of the capacity for development and the detailed design of developments on individual sites at the Local Plan stage, which would effectively move some of the role of a private developer onto a public planning authority. Whilst this would give some certainty to developers, it would also limit their capacity for innovation in the form, layout and design of development, resulting in a more uniform character across an area. This seems to run counter to overall policy intentions as set out in the White Paper.
31. The City Corporation supports continuous improvement in planning and considers that the current discretionary approach should continue. The City takes a positive approach to planning and already works closely with developers. One example of the importance of retaining flexibility is when planning issues arise on or close to planning authority boundaries, or where a single parcel of land spans two or more authority areas. In such cases, where development in authority A's area is close to authority B's area, it may have greater consequences for the area of authority B. Only by retaining some flexibility at a local level can such complex issues be resolved. An approach that would achieve the Government's desired simplification whilst retaining local discretion would be to attach greater weight to Local Plan policies in the determination of applications and place greater emphasis on comprehensive engagement with residents, businesses and developers at the plan preparation stage.
32. The consultation does not set out any proposals about Local Plans at the level of strategic plan-making, such as the preparation of the London Plan. For example, how would a strategic plan designate Renewal or Protected Areas? Will such designations depend on local interpretation of land use and opportunities? Whilst there may be a case for strategic designation of Growth Areas, such as Old Oak Park in London, or urban extensions, the proposals do not seem to address the interaction between strategic and local designation of sites.

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

33. There is a degree of overlap between national policy, strategic regional level plans such as the London Plan, and local policy. This overlap may result in duplication and might lead to confusion and dispute. Clarification of the roles and responsibilities at each level is therefore needed.
34. One feature that may require further attention is that, at present, the NPPF is a 'material consideration' but does not carry the same statutory weight as an

adopted planning policy. Although not explicitly set out in the consultation document, the White Paper appears to change the status of the NPPF and make it part of the statutory policy for an area. The status of NPPF should not be changed to make it statutory. If, however, the NPPF is to be given statutory weight then amendments to the NPPF and national planning practice guidance should be subject to a similar level of scrutiny as Local Plans, including the potential for examination in public. Without such scrutiny, the opportunity for local-level variation in response to local needs, a key feature of the current system, could be lost.

35. The concern that this proposal seeks to address could be answered without the need for fundamental reform. A possible solution would be, rather than relying upon a national set of development management policies, to simply re-state that Local Plans should not repeat national or strategic level policy.
36. A significant concern with the White Paper's proposals is that they envisage policy will be devised and set nationally. This cannot, however, reflect specific local circumstances, or the ambitions and aspirations of local people expressed through Local Plans. In any revised planning system, an option should be available for the local planning authority to reflect locally specific issues, even where these are not in alignment with national policy. Local interpretations would be subject to explanation in the Local Plan and accepted, if appropriate, by an Inspector through examination. In this regard, much of the rationale underpinning the White Paper is concerned with increasing housing supply and addressing housing shortages. It is accepted by planning inspectors and the Government that the geographical area of the City of London is a commercial centre of national and international importance, which is crucial to support UK wide economic growth. The City's exemption from national permitted development rights for the change of use of offices to residential exemplifies this commercial focus. To maintain this focus in the future, it will be important for the City Corporation to give priority to commercial office development, whilst making a contribution to meeting housing needs. This approach requires the ability to set policy locally and to not be constrained by a one-size-fits-all national policy.

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

37. Proposals to simplify the tests of soundness required for the Local Plan and to simplify some of the assessment processes underpinning Local Plan preparation are supported. A proposal for a mechanism for effective strategic planning across local authority boundaries is welcome. This mechanism already exists in larger urban areas, including London, where elected Mayors have responsibilities to prepare strategic planning guidance, including housing requirements. Prior to the creation of the regional assemblies, a series of joint authority working parties existed to consider cross boundary matters. These are both examples of mechanisms which can provide strategic planning. The White Paper refers to sharing of information as a means by which strategic planning can be delivered but no evidence is provided to support this view. It is unlikely that replacing the Duty to Co-operate and formal Statements of Common Ground with the sharing

of information digitally will deliver effective cross boundary working or a strategic approach to planning.

38. The Sustainability Appraisal (SA) process should be retained as a key part of the local plan preparation and to provide checks to ensure that the most sustainable development options are pursued.
39. It is acknowledged that current practice in the preparation of SAs has become bureaucratic, requiring the production of long and detailed reports. A slimmed down and simplified approach which retains the essential requirements of the SA process would be welcome.
40. The reference to infrastructure planning is welcomed. This is critical to ensure that development produces high quality spaces and places for people to live and work. Greater clarity should be provided on how the proposed emphasis on data and data-driven insights would deliver improvements to the current approach to infrastructure planning. Data, on its own, does not deliver high quality outcomes, rather it is how that data is used and interpreted.

**Proposal 4: A standard method for establishing housing requirement figures which ensures enough land is released in the areas where affordability is worst, to stop land supply being a barrier to enough homes being built.**

41. The Government has consulted recently on changes to the Standard Method. The City Corporation responded to this consultation and raised concerns over the way that existing stock and affordability criteria are factored into the modelling.
42. The White Paper's approach would appear to build upon the current and separate consultation for changes to the Standard Method. The combined effect would seem to produce a method that would bind local planning authorities and remove local discretion over the setting of housing targets. Greater clarity should be provided on how the methodology will incorporate other land use constraints and the need to allow for non-housing uses. It is unclear how such uses will be taken into account and what weight they will be given.
43. The lack of clarity about the methodology gives rise to a further concern about how the primacy that is attached to commercial office development in the Square Mile, which supports the UK's national economic interests, will be incorporated. As a minimum, any nationally derived targets must be susceptible to local challenge to ensure that local priorities and local needs can be properly factored into the housing need consideration. A separate consultation should be arranged on the detail of the new methodology before it is introduced, so that the impacts are properly understood.
44. The City Corporation does not support the retention of the Housing Delivery Test. This Test is a backward-looking assessment of housing delivery over a 3-year period which does not address long term future trends. For areas such as the City of London, where housing delivery fluctuates from year to year within the

context of meeting targets over a longer plan period, a focus on short term delivery gives an inaccurate picture of progress in meeting housing needs.

45. In this regard, an approach based on local determination of delivery, with weight attached to the national calculation, should be taken forward. The requirement for local planning authorities to justify departure from the national calculation would be retained but would allow for legitimate local constraints to be incorporated. The retention of a 5-year land supply requirement would provide greater certainty of housing delivery. A strictly nationally set scheme, which is binding on local planning authorities, would not be helpful to housing delivery and not allow for legitimate local circumstances and variation.

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

46. For smaller, largely urban sites, the granting of permission in principle through the Local Plan is not considered to be appropriate. In the City of London, for example, many sites have complex and overlapping planning designations which, although they do not prevent substantial development, do have a significant impact on the scale and form of development. Furthermore, detailed issues of transportation, access, freight and servicing have a significant impact on the type and scale of development that might be accommodated. It is difficult to see how these issues could be adequately resolved at a technical stage if permission in principle has already been granted through the Local Plan.
47. The proposed approach assumes that engagement and consultation on sites will take place at the plan-making stage, removing much of the need for detailed engagement at the application stage. Again, whilst this may be appropriate for very large sites, for smaller urban infill or redevelopment it is impossible for this early stage consultation to reflect potential local impacts which may not become apparent until detailed proposals are submitted. The many examples of such impacts include the effect on daylight and sunlight, freight access and servicing considerations. The ability for local communities and elected Members to engage with development proposals at the point of application should be retained.
48. Concerns over the speed of planning and decision making and the need to provide certainty to the development industry, as expressed in the consultation, could be achieved by reform to the present planning system so as to give greater weight to Local Plan allocations. If a site is allocated for a particular form of development in a Local Plan, or an area identified as suitable for a particular form of development, then there should be a general presumption in favour of that form of development, subject to compliance with other detailed provisions of the Local Plan. This would give greater certainty to developers, whilst also allowing for local policy considerations to be considered. The advantage of this approach is that it would facilitate local community engagement - and objection where the detail of a proposal would have adverse impacts on local environment and amenity. In effect this would be a strengthening of the current policy that planning applications should be determined in accordance with Local Plan provisions.

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

49. Moves to simplify and shorten the amount of information required to enable the determination of a planning application are welcomed. Greater standardisation of data requirements and formats and a simplification of current assessment requirements (such as for Environmental Impact Assessments) would be beneficial, subject to there being no weakening of the protections provided by such assessments.
50. The proposed 50 page limit should be replaced with an emphasis on shorter and more concise supporting statements and information. The extent of additional information required could be determined by the local planning authority on a case by case basis. The amount of information required to support an application will often reflect the scheme's complexity. The design, access, sustainability and transportation assessments needed for a 300m office tower, for example, would be vastly different from the assessment needed for a single storey extension of a commercial building. The introduction of design guides and codes will not negate the need for developers to present a range of supporting information to enable the local planning authority to be satisfied that a scheme accords with Local Plan policy in detail and does not have adverse impacts on local communities and business.
51. The consultation indicates that existing 8 or 13 week time limits will be firm deadlines. This emphasis on speed ignores the importance of high quality decision making and could result in the refusal of a development application where a decision cannot be made within the statutory deadline. If appeals became more common as a consequence, additional strain would be placed on local communities, local planning authorities and developers.
52. An approach which would achieve the White Paper's aim under this Proposal and produce a more effective result would be to give greater encouragement to the use of pre-application discussions to address concerns and objections, with formal applications submitted once outstanding issues have been resolved. This could be formalised so as to allow the developer and the local planning authority to agree a realistic timetable for progressing an application which reflects the specific circumstances of an application.
53. Whilst the proposal on time limits is not accepted, the suggestion that application fees should be returned if time limits are not met, or a decision is granted at appeal, seems likely to result in applications being determined on financial rather than planning or transportation grounds.
54. The consultation advocates the use of national standard conditions. The City Corporation has no objection to additional guidance and model conditions being set out nationally, but flexibility must be retained so as to permit adjustment of conditions to reflect local circumstances, where necessary. Greater delegation to planning authority officers should be tempered by the need for democratic oversight by elected members to be retained for larger, strategic or locally controversial schemes. The decision as to which schemes should be delegated

should remain with local planning authorities and not be determined centrally. At the City Corporation, for example, delegation to officers already occurs on a large number of applications, with only those that raise strategic concerns or where there are 4 or more objections being considered by City Members.

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

55. In the broad terms of the consultation, this proposal is supported, although further information on the proposed template should be provided. Any national template should be sufficiently flexible and adaptable to reflect local circumstances and local priorities.

56. The need for plans to be accessible in a range of formats, including on a smartphone, is supported. Local Plan should be easy to read and understand and not simply based around a single pdf document online. However, digital accessibility is not the same as accessibility for all communities. There should be continuing provision for plans and consultation on plans to be available in hard copy.

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

57. The City Corporation supports the Government's ambition to speed up the process of developing and adopting a Local Plan. However, the 30 month time limit is too short a period in which to undertake meaningful community consultation and engagement, prepare policy supported by a robust evidence base, and to ensure democratic accountability through authority public committee meetings.

58. The consultation makes a separate suggestion that, where a Local Plan is at an advanced stage of preparation at the time of the passing of primary legislation, a new plan in accordance with the requirements of the revised planning system should be prepared within 42 months. This 42 month period is a more realistic timeframe for all Local Plans, along with continued encouragement to produce plans, or alternations to plans, more rapidly.

59. Delivery against the more rapid timescales set out in the consultation would ultimately rely upon sufficient resources being available within the local planning authority to prepare and progress the Local Plan. Elsewhere in the White Paper, reference is made to a reallocation of resources to other planning functions as a result of the simplification of Local Plan processes. In fact, the opposite result is probable - the delivery of a robust and sound Local Plan within the framework outlined in the White Paper would be very likely to require additional staff and financial resources.

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

## **digital tools**

60. The City Corporation supports the continued role for neighbourhood plans within a reformed planning system but is concerned that little information and detail on the role of neighbourhood plans is provided. The potential for expanding the scope of neighbourhood plans is mentioned. If this is taken forward, this will place additional pressure on local planning authorities who have a statutory duty to support the preparation of such plans.

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

61. The Government's proposals hinge on the assertion that local planning authorities should have a wider role in delivering development beyond the granting of permission. Delivery of buildings is, however, a matter for the property development industry, not the local planning authority. The Local Government Association has published data showing that in the 10 years from 2009/10, 2,564,600 homes were granted planning permission, yet only 1,530,680 were built. Any new planning system should specifically acknowledge that local planning authorities are not responsible for property development; authorities should not be penalised if developers do not deliver the development required.

62. The suggested approach for substantial development sites reflects the findings of the Letwin Report and would assist delivery on the larger residential sites. The consultation provides no evidence, however, to support extending the proposals to larger commercial sites.

## **Pillar 2: planning for beautiful and sustainable places**

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

63. The emphasis on local design solutions, prepared and agreed with local communities is supported. The proposed national design guide, national model design code and the revised manual for streets could provide a framework for local decision making but should not provide an inflexible framework. National level guidance is not, in most instances, able to properly reflect specific local circumstances or the needs of local communities.

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

64. The proposal to create a new body to support the production of locally supported design codes is welcomed. It should be noted that an announcement was made on 22 September 2020 to take forward this proposal in advance of the close of the White Paper consultation.
65. Not all local planning authorities have the necessary resources and skills to prepare such guidance and codes. Authorities will require external support. The national design body should provide that support and not binding regulation; decisions on design guidance and codes must be taken locally.
66. The City Corporation supports the intention to require the appointment of a chief officer for design and placemaking. This will give additional weight to the work of planning departments.
67. The consultation indicates that the Government believes simplifying Local Plan processes will release resource to deliver other planning priorities. That is not a safe conclusion to draw. Many local planning authorities have limited resources to allocate to Local Plan-making. Furthermore, if proposals related to the nature of Local Plans are brought into force, the greater weight and faster timescales are likely to require more resource for Local Plan preparation, rather than less.

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

68. The Government's focus is on delivering housing and this proposal, whilst welcome, will only address the housing sector, and not other key sectors of the development industry. The City Corporation expects the proposed new national design body to provide a wider range of guidance which covers all forms of development and open spaces.

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

69. The City Corporation supports the principles underpinning the 'fast track for beauty' and the suggested approach based on guidance in local design guides and codes. In addition, the requirement that schemes demonstrate compliance with wider Local Plan aspirations for an area or site is to be welcomed. Clarification should be provided, however, that compliance with design guidance would not be the sole avenue for determining the acceptability of a development proposal.
70. The proposal that a masterplan and site specific design code prepared by the Local Planning authority will be required for sites within growth areas is supported. To ensure certainty, the Government should set out a requirement that these additional plans and codes are prepared alongside the Local Plan. This should, in turn, guide the timescales for Local Plan preparation, which, as explained above, should be longer than 30 months. Scrutiny of the detail in

masterplans at the Local Plan examination will be essential to deliver local community support for larger scale development.

71. The City Corporation does not support further extension of permitted development rights. Such an extension would remove the ability of a Local Planning authority to manage development and transport in an area and ensure development is compatible with local community ambitions.

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

72. The principle of having clearer and simpler guidance on how the planning system can support measures to mitigate and adapt to climate change and maximise environmental benefits through development is supported. Similarly the City Corporation welcomes an enhanced role for Local Plans in ensuring development proposals support climate change mitigation and adaptation. It is important, however, that the revised system is calibrated to require development in all areas, not just Protected Areas, to deliver a net gain for the environment. Action on climate change mitigation and adaptation underpins City Corporation developments and the Government should consider emphasising this approach in all Local Planning activity.

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

73. The City Corporation supports reform to the process of SEA, SA and EIA. Although these processes have the protection and enhancement of the environment at their heart, in the City Corporation's experience they have lost focus, with an emphasis on process rather than outcome. Consideration should be given to ensuring assessments are continuous, informing the design and delivery of plans and projects, rather than a tool to demonstrate compliance at the end of a development process.

74. The City Corporation is concerned that the White Paper does not sufficiently address the way in which environmental protection and enhancement dovetails into assessments. The proposed focus on Local Plans, land zoning and removal of bureaucracy is insufficient to address the environmental matters raised in preceding paragraphs.

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

75. The commitment to conserving and enhancing heritage assets is welcomed. The intention to allow for sympathetic change, particularly to address climate change, is also supported, provided that measures retain an emphasis on retention of the heritage value of assets. A further consultation will be required regarding the

development of further guidance, which should involve Historic England, other heritage organisations and Local Planning authorities.

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

76. The City Corporation welcomes the commitment to delivering energy efficiency improvements and the national net zero target of 2050. The City Corporation, for example, has recently committed to a plan that will make the Square Mile net zero carbon-emission by 2040, 10 years earlier than the Government's goal. The City Corporation's current review of its Local Plan will ensure new developments include carbon reduction plans in their designs and encourage more sustainable buildings including green roofs and walls. In addition, the need to enhance biodiversity, and create new open and green spaces for nature and people, are important aspects of the City's approach.

77. The City Corporation is ready to work with interested parties and MHCLG on the delivery of net zero and is keen to share its experience and research to inform the delivery of national targets. Delivery of net zero should consider emissions from all sources, covering scope 1, 2 and 3 emissions.

78. The City Corporation welcomes the White Paper's recognition of the important role that the planning system can play in achieving net zero carbon through new development and refurbishment. Other than reference to the Future Homes Standard, however, the consultation provides little detail of how zero carbon can be delivered in non-housing development.

79. The consultation's reference to the potential to reassign planning resources to focus more fully on planning and building regulation enforcement is noted. The White Paper is not clear, however, whether there is an expectation that planning authorities will take on a new role of assisting in the enforcement of building regulations. The consultation does not appear to acknowledge that building regulations are a separate regulatory regime requiring different skills and expertise - it would be inappropriate to rely on planning officers to enforce these regulations.

### **Pillar 3: planning for infrastructure and connected places**

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

80. The City Corporation has operated a CIL since 2014 alongside s106 planning obligations. The Government's policy approach has worked effectively. Recent

changes to CIL, such as removing the restriction on the mixing of s106 and CIL to fund infrastructure, are likely to allow more effective infrastructure delivery in the future.

81. The approach described above should, in broad terms, be retained. The requirements for CIL and s106 in the City are well known and understood by most developers and wholesale replacement with a new system would be a retrograde step. Evolution and refinement would provide continuity and certainty. It would also enable the continued use of s106 value to deliver site-specific mitigation and non-financial mitigation such as contributions towards training and skills provision.
82. There are elements of the proposed Infrastructure Levy that could usefully be incorporated into the existing system, such as the potential to borrow against future Levy receipts and greater flexibility on how the Levy could be spent to fund necessary infrastructure, rather than wider council services. The link between development and infrastructure improvements is necessary not only to mitigate the impact of development, but also to make development acceptable to local communities.
83. Clarification should be provided on the relationship between the Levy applied at borough level in London and the Mayoral Levy. Further information is needed on the proportion of funding that could be passed to the Mayor and the Mayor's role in administering the Levy at the local level.

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

84. The City Corporation welcomes the intention that the Levy could be applied to schemes delivered through permitted development rights and those where there is no uplift in floorspace. This will address a gap in current CIL guidance and ensure that impacts on infrastructure delivery arising from such changes can be addressed.

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

85. The Infrastructure Levy would enable the provision of off-site provision of housing, which will assist the City Corporation in the provision of new affordable housing on its estates outside of the City of London. However, the potential for off-site contributions or commuted sums is already set out in national guidance and such delivery does not require amendment.
86. The White Paper refers to affordable housing, defined in its widest sense and including a range of low cost home ownership products. The housing need in the City of London is primarily for social rented housing, with even low cost home ownership out of reach of many people on the City Corporation's housing register. Clarification should be provided that White Paper's definition of affordable housing includes social rented housing and provides flexibility for local definitions to meet local needs.

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

87. The City Corporation welcomes the intention to give greater flexibility to local authorities in the spending of the Infrastructure Levy. This flexibility should be exercised in the context of the required infrastructure plans to ensure that the infrastructure necessary to support development and local communities is delivered. The direct link between development, infrastructure and mitigation needed to allow that development to proceed, is critical to ensure local community support for development. The most effective means of achieving this link is by maintaining and continuing with the current approach to infrastructure contributions through s106 and CIL.

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

88. The proposals would retain an element of nationally set planning fees to offset the cost of development management, but much of the cost of Local Plan preparation and design guidance preparation would be met through the Infrastructure Levy. In areas where there is little development, where there are significant amounts of Protected space, or where the uplift in development value is insufficient to justify an Infrastructure Levy charge, the consultation does not indicate where the additional funding for Local Planning services would come from. Making planning dependent on funding from development also runs the risk that inappropriate development could be permitted to ensure continued funding, that planning decisions are made on financial grounds, or that Local Planning services are perceived as being too closely associated with the development industry to the detriment of the local community. This is a particular concern if development value uplift is funding the preparation of Local Plans which, in turn, grant permission in principle for new development.

89. Funding for Local Planning services should continue to come principally from a combination of application fees and general taxation/local authority funding to ensure retention of the independence of the planning function.

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

90. The White Paper's proposal to strengthen enforcement powers and sanctions to ensure that Local Plan ambitions are met is welcomed. The City Corporation does not, however, agree that the changes outlined in the White Paper will deliver spare capacity, at a planning authority level, which could be reallocated to enforcement. The revised and accelerated Local Plan process and the production of design guides and codes will, in fact, require additional resources. The City Corporation therefore considers it likely that additional public funding will be needed to deliver on the ambitions for enhanced enforcement.

**Summary of Key Messages**

- a. The White Paper's approach in relation to Protected land is broadly welcomed. See paragraphs 13, 25.
- b. If the proposals on land use designation are adopted, the Protected designation should be expressly extended to include other important green areas. It is important that areas such as MOL, local wildlife sites and others are referenced as being within the definition of Protected areas. Paragraphs 14-19, 25-26
- c. The scope of Protected areas is not clearly defined and should explicitly include local and national designations, including MOL and SACs. Paragraphs 18-24, 26.
- d. The Government should make provision for existing protections for green and open spaces to be automatically carried over to the proposed Protected areas, so as to avoid any attrition on such areas during the transition to the new arrangements. Paragraphs 17, 24-26.
- e. Recognition that there are constraints on the housing formula is welcomed. The formula, which should be in the form of guidance, should allow local interpretation so as to enable to creation of buffer land close to important natural sites, for example. Paragraph 27.
- f. The proposed simplified zoning system will not allow for local variation or local determination and it is difficult to see how it can be applied in a complex central urban area. Paragraphs 28-29.
- g. The proposals should be made sufficiently flexible so that local development priorities such as the concentration of commercial premises in the City and other highly concentrated business districts can be preserved. Paragraphs 29, 31, 36.
- h. The Government should clarify that the delivery of buildings is a matter for the property development industry, not of a local planning authority. Paragraphs 30, 61.
- i. The ability for local communities and elected members to engage in the development process at the point of application must be retained. Paragraph 32, 47, 54.
- j. Variation at a local level should be permitted in response to local needs. Paragraphs 34-36, 54, 63.
- k. The prioritisation of commercial development in the City's geographic area should continue. Paragraph 36.
- l. Off site provision of housing should continue to be permitted. Paragraphs 36, 85.
- m. The determination of housing targets should remain at the local level, and should specifically include protections for green space in each area, including protections where such lands span several authority areas. Paragraphs 36, 42-45.
- n. Determination of planning permission in principle is not suited to smaller development sites found mostly in urban areas. Local plans could, however, be given greater weight in relation to areas allocated for development. Paragraphs 46-48.
- o. Simplification of planning application processes is broadly welcomed, but the importance of high quality decision making requires a longer timeframe than proposed in the consultation. Paragraphs 49-53.
- p. A Local Plan cannot be produced in 30 months, a longer time frame should be proposed. In urban areas, in particular, complex and overlapping designations

make it difficult to envisage how assessment and agreement can be completed in the timescale. Paragraphs 57-59.

- q. It is unlikely that the proposed reforms will create any spare capacity at the level of a planning authority. Paragraphs 59, 67, 70, 79, 90.
- r. The Government should undertake further work to ensure environmental protection and enhancement measures dovetail into environmental assessments. Paragraphs 73-74.
- s. The proposed energy efficiency standards for buildings are welcomed and should be extended to non-housing development. The City Corporation would work with MHCLG on such a project. Paragraphs 72, 76-79.
- t. The 'fast track for beauty' and the suggested approach based on guidance in local design guides and codes are welcomed but the Government should clarify that compliance with design guidance would not be the sole avenue for determining the acceptability of a development proposal. Paragraph 63-66, 69-70.
- u. An extension of permitted development rights is not supported. Paragraph 71.
- v. The proposed land designations should be calibrated to require development to deliver a net gain for the environment. Paragraphs 72, 76-77.
- w. The Community Infrastructure Levy and s106 planning obligations work well and should be retained in broad terms. The proposed flexibility on spending Infrastructure Levy is welcomed. Paragraphs 80-85, 87

***Office of the City Remembrancer  
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