Ministry of Housing, Communities & Local Government

Annex 1

White Paper: Planning for the Future

OGL

Pillar One – Planning for development

Overview

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

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

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

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 Much of this evidence becomes dated very quickly, and production times often render policies out of date as soon as they are adopted.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

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

   •   be based on transparent, clear requirements for local authorities to identify appropriate levels of, and locations for, development that provide certainty and that applicants and communities can easily understand;

   •   communicate key information clearly and visually so that plans are accessible and easily understandable, and communities can engage meaningfully in the process of developing them;

- be published as standardised data to enable a strategic national map of planning to be created;

- be developed using a clear, efficient and standard process;

- benefit from a radically and profoundly re-invented engagement with local communities so that more democracy takes place effectively at the plan-making stage; and

- set clear expectations on what is required on land that is identified for development, so that plans give confidence in the future growth of areas and facilitate the delivery of beautiful and sustainable places.

Questions

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

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

[Yes / No]

2(a). If no, why not?

[Don't know how to / It takes too long / It's too complicated / I don't care / Other – please specify]

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

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

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

[Building homes for young people / building homes for the homeless / Protection of green spaces / The environment, biodiversity and action on climate change / Increasing the affordability of housing / The design of new homes and places / Supporting the high street / Supporting the local economy / More or better local infrastructure / Protection of existing heritage buildings or areas / Other – please specify]

A NEW APPROACH TO PLAN-MAKING

Proposal 1: The role of land use plans should be simplified. We propose that Local Plans should identify three types of land – *Growth* areas suitable for substantial development, *Renewal* areas suitable for development, and areas that are Protected.

Question

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

No / Not sure. Please provide supporting statement.]

We support the general principles in the White Paper which describe a system of Local Planning which:
- is clear and visual, allowing meaningful engagement;
- uses standardised data and standard processes;
- is interactive and web-based;
- gives certainty around housing numbers, delivering housing to meet local need, including affordable housing and the requirements of our self and custom build registers;
- develops focussed and specific local policy alongside strengthened national guidance.

However, there is much which remains to be clarified. In particular:
- There is a view that simplifying the plan into 'areas' will be easy. This is not likely to be the case given the background information required to support permission in principle. Other examples where this takes places, the accompanying design codes run to many pages – such as New York (4000 pages) and generally the state own more land for development.
- In general, before plan making can take place, the Authority will need to have understood its development requirements and how to balance these to meet sustainable development, including their housing numbers. Where is the discussion around how Government will establish this figure, and when? Will there be an opportunity for authorities to respond on matters regarding protected areas considered? How will this be balanced against other land use requirements and who establishes the evidence base to provide a balanced approach?
- Prescribed areas using the categories, albeit simplified, is similar to the process by which councils currently indicate land use allocations and protected/designated areas on their policies map under the current planning system. Whilst we support the clarity that prescribed zoning could offer, we are concerned that, without frontloaded masterplanning and evidence to sit behind Permission in Principle, it would be difficult for Local Authorities to quantify or control development to be delivered, including how many homes would be delivered across its growth or renewal areas. Unless a zone is identified for a singular use, it would be difficult to monitor the delivery of development. There is potential that, for many years after (post consideration of 'detailed' matters) we would not know how many homes would be delivered or whether aggregated, the national targets were being reached.
- Community Engagement. Para 2.36 is significant here. While the White Paper appears to refocus localism, looking practically at plan production within the new system, community involvement would only be engaged in the very first stage (call-for-sites) and then again not until after the Plan is submitted. Once a scheme is 'zoned' for development, and the principle of development established in both Growth and Renewal areas, community involvement would only be invited on the detailed matters at planning application stage and, reflecting para 3.20, could result in permitted development on which communities would have no right to comment.
- Related to the above, and in relation to Neighbourhood Planning, if the Local Plan zones land for Growth, what further influence will communities have? Neighbourhood plans can no longer allocate or deallocate sites for housing.
- The role of neighbourhood planning, once a cornerstone of Localism, seems refocussed solely to design codes;
- -The White Paper emphasises housing delivery at the expense of the wide and varied range of Planning matters considered as part of a Local Plan, and is silent on

many of these (for example Planning for Waste and Minerals). Any reform should ensure focus on all aspects relevant to planning.

- We would welcome more clarity on the process of zoning; the paper is silent for example on how the process allows for proposals which are not taken forward into the plan (reasonable alternatives), and where this would feed into tests of sustainability;
- Note impact of EIA on sites over 150units; even in Growth areas where planning in principle would be appropriate, developers may have less certainty because an application would still be required. Will require the Government to look further at EIA regulations; and
- Much will rely on the availability of resources, skills and evidence, both in terms of the experience of Plan production and in terms of adherence to statutory timeframes. We note that there is scope for Plan making to be funded through developer 'fees' at call for sites stage, although we acknowledge that this is unlikely to generate sufficient revenue alone.

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

Question
6. Do you agree with our proposals for streamlining the development management content of Local Plans, and setting out general development management policies nationally?
[Yes / No / Not sure. Please provide supporting statement.]

We acknowledge the shift in emphasis for plan making to identifying areas for development and protection, and providing specific development standards, with the NPPF becoming the primary source of Development Management policies. We support the strong emphasis on design quality, and on local engagement to enable development which responds to its context.

No - there needs to be locally specific approach to policies to enable York to retain its historic character and setting.

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

Questions
7(a). Do you agree with our proposals to replace existing legal and policy tests for Local Plans with a consolidated test of "sustainable development", which would include consideration of environmental impact?
[Yes / No / Not sure. Please provide supporting statement.]

We agree that sustainable development is an important, accepted and understood concept and should continue to be a central concept to any forthcoming changes in the planning system. On this basis, the role of any new test would need to ensure that the three pillars of sustainability are considered – social, economic and environmental – to ensure that a balanced view is reached in creating an effective and sustainable plan for the future.

The current test of soundness ensure that the process is rigorous and that a 'sound' plan is adopted against a framework to consider whether the approach is justified and effective. This allows a process of scrutiny that, if to continue under a new test, would still need to have regard to and justify the approach to meeting required targets in an appropriate strategy. If these tests are to change, the process to of scrutiny in meeting the sustainable development test and in determining a 'sound' plan will still be required.

Testing of the plan is likely to be require more rigorous consideration if the process allows to move forward to permission in principle (outline planning permission), wherein the uses to be delivered within zoned areas should be fully considered. Not presenting the justification or detailed evidence to support the zones outlined would lead to poor place-making and jeopardise the delivery of key development targets. This test needs to consider the proposals under pillar 2, such as a masterplanning requirements, and whether to provide permission in principle in an adopted plan, this would need to be presented as justification under the new test.

We recognise the benefit of simplifying the tests will be for the public who engage with this process and for whom the technical language and approach at Regulation 19/NPPF (2019) para 35 is not straightforward. However, this does not negate the requirement to ensure an adopted plan is meets the needs of the local area, is appropriate for the place and deliverable similarly to the existing provisions. This test is likely to be more important as the plan will move to equivalent outline planning permission for those annotated areas and sufficient testing is required to make sure the approach is the most appropriate.

The role of the Sustainability Appraisal is to allow for all of these aspects to be considered against a framework of localised sustainable development issues and come to an objective, balanced view when deciding how to proceed in relation to policy and allocations. This requires consideration for social, environmental and economic factors – not just the environmental impact of plans (as in Strategic Environmental Assessment). Importantly, this process allows for the consideration of alternatives against this framework to enable the most appropriate strategy to be pursued. Abolition of the SA should not abolish this step in the process to ensure robust scrutiny of the approach, submissions of land and allowance for alternative approaches to be considered and presented transparently. Further, a sustainable development test should not be disproportionately weighted towards environmental factors without due regard to impacts on social and economic factors – this would not lead to sustainable development, as is intended.

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

Since the abolition of regional planning, systems to enact Duty-to-cooperatehave been put into place. Our experience of this is positive with constructive working and collaboration with neighbouring authorities under frameworks that allow discussion at different officer and decision-making levels. Consideration of this through the examination process seeks to ensure the duty is followed, reported and scrutinised to ensure cross-boundary issues are considered and managed.

In the absence of duty-to-cooperate, it will still be necessary for frameworks to be in place to allow communication between authorities at different reporting levels. The reality is that

it is likely that there is therefore a continuation of the current groups should geography stay the same. This is important to ensure a continued relationship for understanding the impact of development, particularly on infrastructure and to ensure relevant mitigation can be considered where necessary.

Further it will still be important that in order to achieve sustainable development, any new imposed tests consider the extent to which there are cross boundary issues which need to be addressed and why/why not the plan has taken this into account.

Proposal 4: A standard method for establishing housing requirement figures which ensures enough land is released in the areas where affordability is worst, to stop land supply being a barrier to enough homes being built. The housing requirement would factor in land constraints and opportunities to more effectively use land, including through densification where appropriate, to ensure that the land is identified in the most appropriate areas and housing targets are met.

Questions
8(a). Do you agree that a standard method for establishing housing requirements (that takes into account constraints) should be introduced?
[Yes / No / Not sure. Please provide supporting statement.]

The Government's White Paper proposes to replace the Standard Method for Local Housing Need with a nationally-set method for setting local housing requirements, in effect distributing 300,000 homes per annum across local authorities, taking into account constraints and other factors. This will be a binding requirement. The standard method for local housing need is 'policy-off' (a figure for local housing need against which plan makers currently balance constraints in their area to set a local target in their plan) whereas the suggested new method would be the 'policy on' figure that has already taken account of land constraints, for which a local plan must provide.

Using a standard method for establishing a housing requirement would help to reduce the difficulty in setting a local housing requirement using different, changing evidence base figures, which are currently used. The current process is also a time consuming exercise, the new standard method would take up fewer resources for local planning authorities as the government would provide the final binding housing requirement figure. However the down side is that will take away local decision making from the process.

The current standard method gives York a housing requirement figure of 1066 houses per annum. The proposed new standard method would give York a housing requirement figure of 763 dwellings per annum which is substantially lower.

Before question 8a. can be answered in full there are some questions which need to be answered first. Including:

- Should the new housing method take account of planned infrastructure and economic growth objectives?
- The White Paper does not take into account devolution into the housing requirement calculations, how would this be factored in?
- How would the housing trajectories of existing land supply commitments be taken into account and who would validate them? There needs to be a greater understanding in relation to how the Housing Delivery Test and past delivery rates

will be taken into account in the proposed new standard approach. There is currently a lack of detail in the White Paper in relation to this

- How often would the exercise be carried out, in order to generate up-to-date requirement figures?
- The new system suggests more certainty at the initial stages through the provision of a binding housing requirement figure. However this certainty may become more ambiguous later on in the process when local authorities look at site specifics issues for sites and all constraints are applied. Would Local Planning Authorities have any control over this? Essentially there is a need for site specific information first before all constraints looked at. Is that possible given new system proposed?
- There also needs to be an additional understanding of precisely how the constraints will be factored in. For example are they an absolute constraint and what will be the evidential basis for balancing need vs the constraint in each area?

If this new approach is taken forward then the City of York Council would welcome the Green Belt, nature and heritage conservation areas and flood risk constraints to be taken into account.

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

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

City of York Council support an approach to establishing housing requirements that ensures that each authority contribute to providing the much needed levels of housing across the country. Whilst it is agreed that affordability and the extent of existing urban areas are appropriate indicators of the quantity of development to be accommodated it is unclear how local vision for place making fits into a standard method approach. In particular, we query how a top down standard method for housing requirements allows for those authorities, such as York, to plan for growing their economy and realising an area's strategic growth ambitions for the future. Whilst we understand the principle of what Government is seeking to achieve in proposing a standard method for housing requirements, the approach calculating housing requirements. There needs to be a mechanism whereby policy on scenarios can be inputted into the calculations for housing requirements to match local visions for the area.

A STREAMLINED DEVELOPMENT MANAGEMENT PROCESS WITH AUTOMATIC PLANNING PERMISSION FOR SCHEMES IN LINE WITH PLANS

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

Questions

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

Growth areas allow for substantial development, where outline consent is automatically secured for development of a form/type specified in the Plan on adoption of the Plan. New settlements, urban extensions and redevelopment sites could be annotated as 'Growth' areas in a Local Plan, for a range of uses (mixed-use) or a single form of development.

The White Paper's proposal to automatically consent complying development in Growth areas builds on the current scheme of Permission in Principle (PiP), albeit that permission is reliant on a further detailed consent to formalise planning permission.

We have questions around the level of detail that would be given consent (land use, floorspace or housing numbers, more?). Para 3.18 requires masterplan/design code to be agreed as a condition of the PiP, and prior to detailed proposals coming forward, stating that "…These masterplans and codes could be prepared by the local planning authority alongside or subsequent to preparing its plan…". In order to give a level of certainty to housing delivery, and indeed to a future application for detailed consent, we would suggest that masterplanning should be front loaded, to inform placemaking and zoning, raising obvious concerns about the White Paper's prescribed timeframe for plan preparation. Effectively this is calling for all 'outline consents' to be established at the same time. Given that some things may not be known at the plan making stage, how much flexibility can be given within an automatic outline consent? And how much authority will the LA have to masterplan a site that it may not have ownership over?

No - full consideration should be given at outline stage as existing. Faster routes for detailed consents would need to ensure that all matters are fully assessed and considered and the decision not rushed.

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

Renewal areas.
Renewal areas support gentle densification in existing built-up areas, such as residential infill or development in towns, cities and rural areas not zoned as Growth or Protected. We are not opposed to a general presumption in favour of development in Renewal areas. However, a new permission route is suggested which gives automatic consent where development meets 'pattern book' standards, a form of permitted development based on (para 3.19) "…the pre-approval of popular and replicable designs". These are to be developed centrally, but would allow for local orders which would allow Local Authorities to modify how standard types apply in their areas (para 3.20). We question what this would mean in practice. Who decides what is 'popular'; the market, residents, a national design body? Further, para 3.20 gives the example of permitted development in suburban semi-detached development, where densities could be increased. We advocate the proper consideration of the many planning impacts from development, as part of any prior approval. "Gentle intensification" in renewal areas would require more than simply design considerations.

Other forms of development in renewal areas would remain subject to planning consent, through a "faster planning application process", with an application determined in the context of the Local Plan/NPPF.(Para 2.33). What would speed up is not discussed here, and we would be interested to understand what changes are being proposed to the current system of planning consent to enable this.

Protected areas
In Protected areas (such as areas of Green Belt, AONBs, Conservation Areas, Areas of significant flood risk) development would be restricted, with Planning consent to be obtained through an application judged, interestingly, solely against the NPPF (para 2.35). We are concerned that this does not allow for proper consideration of locally significant Planning matters.

By way of example, under the White Paper's provisions, development in York's Central Historic Core Conservation Areas would be subject to consent, judged against the NPPF. No consideration of local evidence (CHC CA character appraisal, retail strategy, economic growth strategy). Similarly, in areas of Green Belt; outside 'Growth areas' annotated in the Plan, development would be assessed against NPPF only. Would exception sites in the GB still apply (the paper talks about potential for NPPF rural exceptions policy)? Needs very careful consideration allowing for local priorities to be integrated in decision making.

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

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

There is insufficient information present in the White Paper to allow us to answer this question. Firstly, it is unclear how bringing new settlements forward under the Nationally Significant Infrastructure Projects regime (NSIPs) fits in with Proposal 1 of the White Paper whereby Local Plans identify three types of land; growth, renewal and protected. Under this proposal, areas suitable for substantial development, such as a new settlement would be identified as growth land where outline approval for development would be automatically secured for forms and types of development specified in the Plan. If outline approval would be automatically secured, would only reserved matters applications be determined under the NSIP process? Or is the proposal that new settlements are not given automatic outline consent and instead be determined through the NSIP process?

Notwithstanding this confusion, we have a number of concerns if new settlements were brought forward as NSIPs. Would PINs have the role of determining any such NSIP application as they do now? If this is the case it would result in a significant loss of revenue for authorities who would normally expect to receive planning application fees to contribute to resourcing officers time in assessing the proposals. Under the current NSIP process there is significant pressure on authorities to input into the process, at a number of stages. How will this be resourced in lieu of application fees?

It would also be interesting to understand Governments view on how determining new settlement applications through the NSIP regime rather than regular planning application process may undermine the local planning process. The Government's own guidance on changes that allow development consent to be obtained for housing related to a nationally significant infrastructure project dated March 2017 makes clear that in allowing an element

of housing to be consented under the 2008 Act does that it should 'not undermine the local planning process and the wider responsibilities for local authorities to plan for housing needs in their area' [paragraph 16 of Planning Act 2008: Guidance on Nationally Significant Infrastructure Projects and Housing, March 2017]. The guidance goes on to state that 'given the importance of ensuring that the local planning process is not undermined, it is very unlikely that the Secretary of State will consent more than 500 dwellings for a single nationally significant infrastructure project'. Given that new settlements are likely to be in excess of 500 dwellings, City of York Council has concerns that should new settlements be determined through development consent orders it significantly reduces local democracy and community engagement, restricting the capacity for authorities to plan for high quality development that meets the vision for the area. This significantly reduces the local authority and local community's ability to engage in proper place making, which is particularly important in the creation of a new settlement.

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

Question
10. Do you agree with our proposals to make decision-making faster and more certain?
[Yes / No / Not sure. Please provide supporting statement.]

Yes and No – agree that the right information needs to be submitted at validation stage. Investing in the modernising planning systems in local government is also supported. Don't agree that with any of the proposals for reducing information as part of the planning application process. Concerns that no more than 50 pages in one standardised planning statement would be sufficient for complex large applications.   Strongly disagree with a digital template for planning notices (site notices) should be used, not everyone has access to the internet and this would alienate people from the planning process.   Strongly disagree with the automatic refunding the planning fee if an application doesn't meet its target and that certain types of application should been deemed to have consent if a target isn't met. This will have a detrimental impact on the quality of decision making. Disagree with refunding planning fees if an application is refused by a committee and allowed at an appeal. This is not the correct way to focus how applications are determined. It would also have a significant impact on the fees received by the LPA which in turn could affect staffing levels.   This must be supported by clarity that Local Authorities can refuse applications that do not meet affordable housing requirements, otherwise the increased pace of decision making will lead to applicants offering only unsuitable affordable provision and a potential "race to the bottom" where this becomes the norm

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

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

The City of York Council broadly support proposals which can make the planning system more accessible and understandable. A Local Plan is already a visual and map-based document with the Policies Map being the key element used to gain an understanding of the broad picture for future growth of the area. City of York have already invested in better engagement with communities through the use of mapping software and digital interaction for consultation, and are keen to continue this trend, especially in relation to creating links and bridges between spatial elements of the plan and relevant evidence base and policies to make plans more accessible.

However, it is possible to create interactive, wed-based, accessible planning documents without limiting or standardising the content of those plans. As set out in response to questions 5 and 9, it is necessary to understand the detailed structure any standardisation might take to understand the implications of this. While standardisation is a positive contribution to making data across authorities comparable at a national level, and can ensure important elements are not overlooked or missed, it is also a step away from localism and it would be necessary for us to understand how locally significant planning matters could still be considered within a new nationally set framework.

The consultation document states that text in local plans would be limited to spatially-specific matters and able to be read on digital technology such as smart-phone. It is unclear if the standardisation will be seeking to limit the number of policies or the number of words within these policies or if other restrictions are being inferred by this. While the spatial elements give a broad overview, it is the understanding and interpretation of policies which give a plan value and it is important the necessary information is available to the public in order for the new proposed system to be understood and accessible.

Some policies may relate to an entire authority area as well as other policies being limited to specific areas. Accessing all the information through interactive web based mapping could be unwieldy and some may find it easier to refer to a printed document. While CYC believe it is important to better engage people digitally in planning, those who do not have access to technology or struggle to use it should not be excluded from the planning process and therefore text based or printed documentation (including printed maps) should always be available to those who require this.

The consultation states that plans will be based on the latest digital technology but it is not clear if this relates to a broad type of software or standardisation by brand and if or how often new standards or guidelines for the technology to be used will be issued.

The consultation also states that being web based, updates can be published instantaneously to be shared across all parties and that information should be available to PropTech entrepreneurs to improve transparency. Ideally updates would only be made at recognised process points such as consultation or adoption otherwise the process becomes more complex, however, regardless of when the updates are made it is important that any guidance also contains information on managing version control of data which is made

publically available as well as the process for notifying parties who may hold out-of-date information (within the GDPR guidelines) to avoid misunderstanding and confusion.

Given the need for the latest technology and standardisation of data it may be that there is a cost burden associated with software, training and technical capacity within teams, which should be recognised. Ensuring that accessible software and properly skilled officers can be embedded within planning teams will make the information created more accurate to local issues and easier and quicker to update in line with the ambitions set out in the consultation document.

A STREAMLINED, MORE ENGAGING PLAN-MAKING PROCESS

<u>Proposal 8</u>: 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.

Question
12. Do you agree with our proposals for a 30 month statutory timescale for the production of Local Plans?
[Yes / No / Not sure. Please provide supporting statement.]

Notwithstanding our concerns set out under Question 5 in relation to whether Local Plans should be simplified in with the provisions of the White Paper, whilst we welcome the certainty that putting timescales on the preparation of Local Plans would bring to developers and the local community could bring, we consider that the 30 month timescales would be challenging. Not least in relation to how and what format the sustainable development test will take and how this needs to be met

<u>Proposal 9</u>: Neighbourhood Plans should be retained as an important means of community input, and we will support communities to make better use of digital tools

Questions
13(a). Do you agree that Neighbourhood Plans should be retained in the reformed planning system?
[Yes / No / Not sure. Please provide supporting statement.]

Yes, the City of York Council agree that Neighbourhood Plans should be retained in the reformed planning system.

The uptake of Neighbourhood Plans in the York authority area has been high. Since Neighbourhood Plans came into force in 2011 seventeen plans have been started and three of these Neighbourhood Plans have passed the referendum and have been adopted. They are an important part of localism, with local people influencing how their area should be developed now and in the future.

Neighbourhood Plans could be used to develop more creative platforms including 3D visualisation technologies to explore different proposals within the local context. This would make it easier for communities to visually understand what developments may look like in the future. Greater use of digital tools could improve engagement with different groups in the community. There is the potential that it will improve accessibility for more people but only if all members of the community have access to the internet. It has the potential to provide more certainty for local communities to help reflect local character and preferences about the form, appearance and design of potential new developments.

There is however a question over whether all Neighbourhood Plan Groups will have the digital skills required and whether this could be done in house by the Neighbourhood Plan Group or by the Local Planning Authority (the City of York Council currently digitally support Neighbourhood Plan Groups) or whether Neighbourhood Plan Groups would have to source the digital work externally which inevitably will come at a cost. In turn this raises a query over resourcing, training and the cost of this new technology. More detail is required in relation to funding of this new concept.

In the short term new digital technologies could be disruptive, and there are likely to be teething problems as the analogue and digital works collide. This new digital concept will take time to understand and a piolet neighbourhood plan is a good idea to see how it will work in practice.

The White Paper suggest that Neighbourhood Plans should be linked to the Local Plan process. If this were to happen then Neighbourhood Plans would be heavily reduce in scope as the overall designation of the land would have already been decided (and in some cases already granted consent) by local plans. This could give the community less control over all policy areas if it is to be simplified in line with local plans and focus on development zones. A large proportion of Neighbourhood Plans within the York area focus on retaining villages/ neighbourhood areas as they are and including shaping policies which may become redundant if Neighbourhood Plans are to become more streamlined.

Small areas such as individual streets are a new concept being put forward by the White Paper. There have been some enquires into this in the York area in the past but not taken forward due to their small scale. This approach could make the appearance and feel of an area less cohesive with one streets design and appearance looking very different to the street next to it with a completely different design and appearance. Also more information is needed on who could make decisions at such a local level, would the majority of the people who live on the street need to form part of a neighbourhood forum or could just a couple of street residents make up a neighbourhood forum? - would this be non-discriminatory? What about people's views from the wider area could they be taken into account?

SPEEDING UP THE DELIVERY OF DEVELOPMENT

Proposal 10: A stronger emphasis on build out through planning

Yes so long as the quality in development is maintained.

It should be acknowledged that following the planning process, Local Authorities have limited scope to speed up delivery of development which is private sector led. Measures would be supported which encourage private sector led development delivery of attained planning permissions at a high quality.

Pillar Two – Planning for beautiful and sustainable places

Overview

3.1.   We have set out how a simpler planning process could improve certainty about what can be built where, as well as offering greater flexibility in the use of land to meet our changing economic and social needs. But improving the process of planning is only the starting point – we want to ensure that we have a system in place that enables the creation of beautiful places that will stand the test of time, protects and enhances our precious environment, and supports our efforts to combat climate change and bring greenhouse gas emissions to net-zero by 2050. Recent research from the Royal Town Planning Institute has set out the vital contribution that planning can make to a sustainable and inclusive recovery.[1]

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

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

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

highlight now, as being integral to our proposals for what a revised planning system can achieve.

Questions

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

[Not sure or indifferent / Beautiful and/or well-designed / Ugly and/or poorly-designed / There hasn't been any / Other – please specify]

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

[Less reliance on cars / More green and open spaces / Energy efficiency of new buildings / More trees / Other – please specify]

Sustainability is at the heart of planning in York and we are therefore supportive of all of the measures outlined. The emerging Local Plan for the authority prioritises creating a prosperous city for all, provision of good quality homes and opportunities for the population, conserving and enhancing the environment and ensuring efficient and affordable transport links in order to deliver sustainable development in the York context. York has also declared a climate emergency which recognises that action is required for the city to reduce its impact and become resilient to climate change.

Through planning policy, we have set ambitious targets to ensure delivery of sustainable design and construction, energy efficiency, renewable energy and low carbon technologies to meet a 28% reduction in carbon emissions. We also support BREEAM and CEEQUAL for non-residential development to ensure high quality sustainable design and as an authority support higher standards such as Passiv Haus on council owned development sites to maximise energy efficient development.

We fully support reducing the reliance on the car and are promoting active and sustainable forms of travel as well as reducing the impact of vehicles within the city. We support electric vehicle infrastructure delivered through development as well as the delivery is sustainable modes of transport. As an authority, we are also seeking a transformation of our fleet vehicles to low carbon technologies.

Protection and enhancement of green infrastructure is also a priority. Protecting European, national and locally designated nature conservation sites and considering biodiversity is a fundamental part of our decision-making. Enhancement of green infrastructure, including the delivery of all forms of open space, biodiversity net gain and planting of more trees is a priority for the Council. The emerging Local Plan seeks to deliver new open space on all new development and new space is identified by the authority for biodiversity net gain. The Council also recently committed to the creation of a new amenity woodland in line with wider projects for the Northern Forest.

Proposals

CREATING FRAMEWORKS FOR QUALITY

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.

Question
17. Do you agree with our proposals for improving the production and use of design guides and codes?
[Yes / No / Not sure. Please provide supporting statement.]

Not Sure. We agree that visual information can be much better than text at providing clarity about certain subjective design expectations and that this can avoid different interpretations and should provide more clarity from the outset and help minimise unproductive interpretative debate. We also think that fundamental principles for good design are excellent to capture in visual design guidance and that these principles can be universally applied to contribute towards achieving good design.

We also believe that certain design standards are easy to specify in a written format and that this form of design guidance should also be included where appropriate (minimum room areas for housing etc…)

Overall, we fully the support a greater role for the use of design guides in the planning process.

We have the following observations about developing local design guidance:

- The form of local involvement is hugely important to ensure it genuinely reflects diverse community interests. People tend to get involved more when they are concerned about something than when they happy about something and this can skew the debate and outputs.
- It feels like there are transitions of greater detail in the tier of documents from "National Design Guide", to proposed "National Model Design Code" and proposed revised and consolidated "Manual for Streets", to finally "Local Design Guides". Local design guides should not be left only with matters of the smallest detail like window proportions or roof shape or wall and roof materials. This would be very disappointing. Local character is complex, arising out of many criteria. York has developed evidence for local character as part of its draft Local Plan (Heritage Topic Paper). It can break the norms- will it be expected that local design guides can have whatever scope they see fit, even if this strays into the territory of (or even modifying) other documents such as the proposed National Model Design Code?

- Local character is by definition a built environment built to previous standards and this white paper often champions the desirable way we used to build places. Many modern standards are better than old ones (energy efficiency etc…), but some current standards that arise because of the way we live, work and play in the modern economy create poor places (the isolated car dominated commuter housing estate, the soulless road built to accommodate ever larger refuse wagons, the street without large trees because there are worries about subsidence, slippery leaves or underground utilities etc…). There are workarounds in the existing "less

than ideal" environment (the environment that we like), but encoded from scratch we often end up designing soulless places unintentionally. Will design codes prioritise beautify places as the most important criteria, or will modern standards and expectations always be a priority, even when they create poor places to live?

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.

Question
18. Do you agree that we should establish a new body to support design coding and building better places, and that each authority should have a chief officer for design and place-making?
[Yes / No / Not Yes *sure. Please provide supporting statement.]*

Yes**.**

We support the creation of a new body to support the delivery of design codes. The challenge of the proposed planning transformation is hugely significant. Local authorities do not currently have the resources to do this by themselves. Also, the learning curve for this process should not be duplicated for each authority. It is far more efficient to develop a centre for excellence and to spread this knowledge through support to individual authorities. However, such a body needs to work very closely with each authority, because each authority knows their own local issues the best, is most passionate about resolving them, and ultimately will be the one implementing the revisions to the process, and so such a support group should not dictate or take over the local process.

We also support the proposal for a chief officer for design and place making. In order to significantly increase the importance given to good design as a criteria for decision making (when there are so many other competing pressures), there needs to be senior management leadership dedicated to this issue.

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.

Question
19. Do you agree with our proposal to consider how design might be given greater emphasis in the strategic objectives for Homes England?
[Yes / No / Not sure. Please provide supporting statement.]

Yes.

Yes, we agree, both for if this is linked to Proposal 12 (as a national leadership role and support for local authorities) or just for their own land programme. However, leading by example only goes a fraction of the way towards delivering the expected sea-change in ambition for design quality across all national construction. There was great merit in the former Regional Development Agency model of providing financial support for private developers on private land on the condition of setting much higher design standards than the norm. We recommend a similar role is considered for Homes England now, to promote and stimulate good growth in difficult conditions.

A FAST-TRACK FOR BEAUTY

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.

Question

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

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

Not sure.

Planning revisions proposed here attempt to undo overly complicated processes; processes that slow down delivery and dis-incentivise those majority unable to navigate the planning system. This ambition is good. However, expecting to standardise and lay bare what is "good design" as a significant component of the answer to this issue places a huge reliance on what is actually in the proposed "National Model Design Code", proposed revised and consolidated "Manual for Streets", and "Local Design Guides".

We note that protected areas (including conservation areas) will be treated differently but relying heavily on design guides have a number of issues to consider, some of which are included here:

- We would be concerned if the process of developing this complex guidance is rushed and outputs compromised.
- The place making design process entails synthesising different design and performance criteria from many disciplines and standards. Sometimes these have conflicting pressures (say between needs for parking provision, play, privacy, lighting, ecology, character) and a good design can find ways to resolve apparent conflicts, but often it ends up prioritising one thing over another- rather than satisfying all completely, in a tick box sort of way. Will such a system of priorities be accounted for?
- Good design involves an interrelationship of different criteria. It might be acceptable to relax one norm if another (or several other) thing(s) are changed. How will this be accounted for?
- Basic principles of good design (like adhering to a building line in a street) are readily understood already- these are rarely the ones contended; causing delays in the planning system. Beauty (or lack of) is a much more complex and subjective criteria to define – criteria like "interesting", "ugly", "logical", "bland", "boring", and

"delightful" can be the ones that leave us stumped, relying more on professional judgement and opinion. Great care is needed to ensure that design guidance that fails to fully capture these elusive qualities is not produced that inadvertently becomes a passport to ugly places that pass all the empirical criteria, yet fails this final test, leaving the planning system (of professional judgement) unable to stop them.

EFFECTIVE STEWARDSHIP AND ENHANCEMENT OF OUR NATURAL AND HISTORIC ENVIRONMENT

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.

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.

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

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.

Pillar Three – Planning for infrastructure and connected places

Overview

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

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

4.3.   There are several problems with this system. Planning obligations are broadly considered to be uncertain and opaque, as they are subject to negotiation and renegotiation based in part on the developer's assessment of viability. This creates uncertainty for communities about the level of affordable housing and infrastructure that development will bring. In turn, this brings cost, delay and inconsistency into the process. Over 80 per cent of local authorities agree that such negotiations create delay, despite the planning application being acceptable in principle.[2] This acts as a barrier to entry to the market, and major developers are better placed to devote the legal and valuation resource needed to negotiate successfully. This unevenness is a problem too for local authorities, with significant variation in skill and negotiation in negotiating viability across authorities.

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

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[2] MHCLG (2019) *The Value and Incidence of Developer Contributions in England 2018/19*

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

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

- responsive to local needs, to ensure a fairer contribution from developers for local communities so that the right infrastructure and affordable housing is delivered;

- transparent, so it is clear to existing and new residents what new infrastructure will accompany development;

- consistent and simplified, to remove unnecessary delay and support competition in the housebuilding industry;

- buoyant, so that when prices go up the benefits are shared fairly between developers and the local community, and when prices go down there is no need to re-negotiate agreements.

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

Question

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

[More affordable housing / More or better infrastructure (such as transport, schools, health provision) / Design of new buildings / More shops and/or employment space / Green space / Don't know / Other – please specify]

A CONSOLIDATED INFRASTRUCTURE LEVY

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

Questions

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

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

There are some advantages to this but it should be sensitive to the differential land value uplifts developed by different land value types. There are a variety of factors affecting this:

- Existing use values: The value of a greenfield site will see a substantially larger increase from agricultural land to housing than that of a brownfield site with existing use as commercial premises
- Varying development costs: Sites with significant remediation or demolition work, and listed buildings, will generate a considerably lower value uplift than sites where little work is required
- A single threshold is also unlikely to be effective as a straightforward small site in a high value location could viably contribute significant Levy payments, whereas a larger complex site may still generate only relatively low capacity for Levy payments

In recognition of the above a lower affordable housing target will often be set for brownfield and greenfield sites, in York this is 20% for brownfield and 30% for greenfield. However for some more complex brownfield sites an individual viability assessment is still required. This is avoided wherever possible as a costly and time consuming exercise however in some cases only full expert consideration of the detailed costs of an individual site can determine the level of contribution; in most such cases in recent years, the applicant's initial position is that no affordable housing can be provided but following the independent viability appraisal a substantial below-policy contribution is agreed.

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

Taking into account the variability of local land markets, an area-specific rate based on a robust evidence base would be the best approach. A "one size fits all" approach nationally would be likely to leave developments unviable in areas of low land value, but fail to generate an appropriate Levy in areas of higher land value.

[Nationally at a single rate / Nationally at an area-specific rate / Locally]

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

[Same amount overall / More value / Less value / Not sure. Please provide supporting statement.]

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

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

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

Question

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

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

Yes, this is very important. Over the past 4 years in York there have been 362 homes over 11 applications permitted through this route where an affordable housing contribution would have otherwise been required. At a policy compliant 20% of the total as affordable housing this would have provided an additional 72 much needed affordable homes for York residents.

Evidence suggests that these sites, like other brownfield sites in York, can generally deliver the policy requirement. However where this is demonstrated to be unviable there is flexibility to deliver a lower level as has been successfully agreed in a minority of cases in recent years.

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

Questions

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

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

Yes – section 106 affordable housing plays an exceptionally important role in affordable housing in York. Over the past 10 years 30% of the 1,213 affordable homes across all tenures in the City have been provided through section 106 agreements. Over a 20 year timeframe the contribution of S106 affordable housing is closer to 40% of all affordable housing delivery. Further clarity is needed on how an on-site provision will be maintained if the Infrastructure Levy obligaitons are paid at the point completed homes are sold; it is not clear how affordable housing on-site provision will be maintained and costs agreed. It is, however, crucial that on-site affordable housing continues to be prioritised. Furthermore by moderating excess land price inflation, it enables Housing Associations better to compete in the land market so also supports delivery of grant funded homes.

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

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

Either method may be workable, the key aspect of the current system that would need to be replicated is sale of the affordable homes to an appropriate Registered Provider at a price where they can capitalise the rental streams with no additional subsidy needed. It is

welcomed that this importance of high quality standard is recognised, however strong safeguards would be needed to achieve this.

It is considered that this is unlikely to be sufficient in many cases: "*To ensure developers are not rewarded for low-standard homes under the Levy, local authorities could have an option to revert back to cash contributions if no provider was willing to buy the homes due to their poor quality." (4.24)* This is because many developers have a preference for cash contributions so this would not provide any incentive for them to facilitate on site delivery. If a developer is building new homes that no Registered Provider will take because of poor quality, that would be a very poor indictment on the private housebuilding industry and must be avoided.

An alternative approach would be for either a local or national clear minimum standard specification that all affordable homes must meet, this would support a "rule based" approach avoiding negotiation wherever possible.

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

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

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

Yes, a mechanism should be in place to ensure that the appropriate share of value is provided via the Infrastructure Levy, in cash and in kind. However it is important to note that affordable housing levels and identification of homes to be provided will need to be fixed much earlier in the process than site completion or it will not be logistically possible for Registered Providers to arrange for successful transfer of the homes when they are completed.

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

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

Yes, as noted above, sale prices to Registered Providers must enable them to purchase at a price which does not require any additional subsidy; and a clear minimum specification and quality standard must be set out that developers need to meet. Other considerations:

- Local authorities must be able to secure a suitable mix of good sized homes that meet the local needs (e.g. good 2 and 3 bed family homes), and that are broadly typical of the homes across the site (not simply e.g. the smallest house types or most of the flats)
- Local authorities must be able to secure affordable homes that are well distributed across the site and integrated into the layout, not clustered together or mainly in the least appealing area of the site
- Amenities, facilities and outdoor play space must be shared and accessed equally with affordable housing, without undue service charges that make providing the affordable housing unviable

These factors have all been highlighted as important by partner Registered Providers based on their experience of delivering and managing affordable homes over many years.

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

Question

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

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

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

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

An affordable housing ring-fence as part of the Infrastructure Levy would be expected to play an important role in overall affordable housing delivery ambitious set out as part of Planning for the Future.

Delivering change

Proposal 23: As we develop our final proposals for this new planning system, we will develop a comprehensive resources and skills strategy for the planning sector to support the implementation of our reforms. In doing so, we propose this strategy will be developed including the following key elements:

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

5.29. We will review and strengthen the existing planning enforcement powers and

What happens next

Equalities Impacts

Question

26. Do you have any views on the potential impact of the proposals raised in this consultation on people with protected characteristics as defined in section 149 of the Equality Act 2010?