

**Planning for the Future**  
**Bristol City Council's response**  
**October 2020**



The response is presented in the following format:

***Pillar One - Three / Proposal (1- to 24) – headline proposal from white paper***

***Q#. ...? The government's consultation question***

RESPONSE: BCC response.

Responses are included to some proposals which do not have specific consultations questions (Proposals 15, 16, 17, 18, 23, 24).

***Pillar One – Overview***

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

RESPONSE: Democratic. Flexible. Over-centralised.

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

RESPONSE: Yes, as the local planning authority.

***Q2(a). If no, why not?***

RESPONSE: Not applicable.

***Q3. Our proposals will make it much easier to access plans and contribute your views to planning decisions. How would you like to find out about plans and planning proposals in the future?***

RESPONSE: Bristol City Council supports the increased use of new technology in the planning process but systems must ensure access for all and be accompanied by overall improvements to digital inclusion.

***Q4. What are your top three priorities for planning in your local area?***

RESPONSE: [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]

All the matters listed, plus others such as conservation of the heritage environment, are important and connected. As local planning authority the City Council addresses the interrelated issues of new

development. In Bristol, we are committed to building a better Bristol – a city of hope and aspiration where everyone shares in its success. We are particularly focused on delivering new and affordable homes with a target of 2,000 homes per year. We have declared climate and ecological emergencies and these inform our approach to sustainable development and set out to investors coming to our city what good growth means to Bristol.

The City Council considers that the white paper's proposals are based on an incorrect premise that the planning system is largely responsible for insufficient homes being built. Bristol City Council is positive and welcoming of development and in favour of good growth. We have given permission for thousands of homes and have a draft Local Plan devoted to large scale brownfield regeneration which will generate yet more housing, community facilities and workspace. Targeted improvements to the planning system are not unwelcome but the wholesale proposals for change are in effect the wrong answer to the wrong question. They are likely in themselves to result in delays due to uncertainty and do not address fundamental matters of delivery such as investment in infrastructure, delivery of genuinely affordable homes and enhancement of the non-planning mechanisms local authorities need to enable them to secure development.

### **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.***

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

RESPONSE: [~~Yes~~/No/~~Not sure~~].

Bristol as a city is pro-growth and pro-development and this is clearly demonstrated through our approach to planning and development. Our Local Plan review already contains proposals for designation of growth and regeneration areas actively encouraging and enabling investment and development. Whilst speeding up the Local Plan process would certainly help it is not in itself the fundamental reason delivery is delayed. What is required is more investment in infrastructure, a clearer fiscal system to support local authority land control and investment and greater resources at the local authority level to bring forward responsive master planning.

The White Paper proposals are overly simplistic, especially in the context of a complex urban environment. It is agreed that greater weight and authority should be given to Local Plans so that planning applications are not seen to unduly re-open matters of established principle. However, this could be achieved effectively within existing legislation, maintaining flexibility. The proposed approach may also stifle local innovation by setting development within overly rigid parameters. It also risks disengaging residents from the decision making process in or near growth areas, whilst appearing to have strict controls in protected areas. This is considered harmful to equality, in that communities in protected areas will have greater opportunity to influence their immediate environment than those living in areas of growth or renewal. It is likely that areas to be identified for growth or renewal are those with higher levels of social deprivation and historically lower levels of resource and time for community engagement. These communities are often under-represented in plan-making and development processes

It is not considered plausible to address and resolve all of the material planning and placemaking considerations of a future development proposal at the plan-making stage; a proposal in a plan might be ten or more years away from being delivered on the ground in response for example to land ownership, viability and fiscal issues; contamination and land clearance, phased delivery and time taken to build out. In this regard, flexibility and a degree of discretion need to be retained to ensure the planning system retains public trust and is responsive to changing circumstances.

The proposals do not acknowledge how the planning system helps to support a diversity of uses by impacting on the value of land. The more 'zonal' system the white paper envisages is liable to result in important land uses being displaced by those of higher value but which do not support the diversity necessary to secure thriving places. Any changes to the system should ensure the retention and incorporation of important uses with lower land values; this will be particularly important in 'growth' areas. The result of the proposals could be a planning system which fails to deliver mixed and sustainable communities, and which does not adequately address matters such as spaces between buildings, broader placemaking objectives and how to use growth to address such challenges as provision of open space in areas of under provision.

The assumption that land use and form can be set in their entirety at the Local Plan preparation stage for the full period of a Local Plan is to fail to recognise the way in which cities and communities evolve. Rapidly changing requirements in response to the demands of the climate and ecological emergencies, evolution in technology and of the need to respond to new resilience requirements brought by Covid 19, exemplify the need for flexibility, controlled locally.

Clear examples of the need for local flexibility are demonstrated in Bristol in the Temple Quarter area. The adopted Local Plan set out a broad ranging and flexible growth vision for the area which was responsive to evolving land use requirements. The Council is currently working with the University of Bristol to enable masterplanning for substantial development proposals for a new University Campus, related R&D employment and student accommodation, in addition to mixed employment opportunities and residential provision. Had the Local Plan set out a prescriptive 'growth' allocation of the type proposed in the white paper, one which did not anticipate a wide range of uses, this opportunity may not have been facilitated.

## **Proposal 2**

### ***Development Management policies established at national scale and an altered role for Local Plans***

#### ***Q6. Do you agree with our proposals for streamlining the development management content of Local Plans, and setting out general development management policies nationally?***

RESPONSE: [~~Yes/No/Not sure~~]. The white paper exaggerates concerns about development control policies and the evidence required to support them. Any issues about repetitiveness or the scope of policies could easily be addressed through existing processes and a clear national planning policy framework. Local development management policies in practice provide an important steer for development and address the local concerns of residents and businesses. They are readily understood by developers who recognise them as the reflection of local development priorities. It is important for local areas to have development management policies relevant to the issues in

those areas. Centralising planning policies to Whitehall is unlikely to address local needs or development requirements and will tend to stifle policy innovation. Local policies will be best placed to enable a responsive approach to local challenges of climate change and to enable rapid introduction of new adaptation technologies.

### **Proposal 3**

***Local Plans should be subject to a single statutory “sustainable development” test, replacing the existing tests of soundness.***

***Q7(a). Do you agree with our proposals to replace existing legal and policy tests for Local Plans with a consolidated test of “sustainable development”, which would include consideration of environmental impact?***

RESPONSE: [~~Yes~~/No/Not sure]. The existing legal or policy tests are not unduly complex but they relate to the current system. They result in extended examination timetables and so it is unclear how a test of the type proposed would operate in a system where a fixed statutory timetable is in place. Arguably ‘tests’ are unnecessary. Any tests could be removed altogether and replaced with a more integrated system for ensuring plans are appropriately prepared throughout each stage of preparation.

The planning system should incorporate **social value** as a holistic approach to its social, environmental and economic goals. This could be achieved by incorporating the concept of social value into the objectives of plan making and decision taking. This should be further informed by the use of the UN global sustainable development goals which should be a thread running through the whole planning process.

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

RESPONSE: In 2011 (Localism Act) the government removed the previous system of regional and local planning and replaced it with an ill-defined duty to cooperate that has had variable outcomes in practice. This change had the effect of delaying the delivery of new plans and the housing sites that would have been generated by them.

The white paper is unclear on strategic planning – the duty to cooperate should not be removed without suitable mechanisms to replace it. Many urban areas have grown beyond their administrative boundaries and mechanisms to address planning across boundaries are essential. The Government should set out a clear structure for addressing strategic planning matters, in discussion with local authority bodies such as the Core Cities group. In combined authorities, Mayors and constituent authority leaders could be asked to coordinate a formal agreement on addressing strategic matters such as the distribution of housing requirements which will then be reflected in Local Plans. If the proposed timetable for Local Plans is used (Proposal 2 paragraph 2.48) this could occur formally within the first 6 months of Stage 2 with preparatory work during in Stage 1. Mayors and constituent authority leaders should also identify any local authorities surrounding combined authorities which should be part of this process, with the Secretary of State formally agreeing and requiring their participation (Stage 1).

It is essential that cross boundary cooperation considers the provision of affordable housing, with formal requirements that affordable housing nominations are available to those authorities whose overall housing needs are partially being met in other areas. Essential cross boundary matters to address also include social and economic issues, ecology and the range of environmental issues.

Plans should be formally required to have regard to the need to coordinate with wider strategic approaches to development in identified powerhouse areas such as Western Gateway.

#### **Proposal 4**

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

***Q8(a). Do you agree that a standard method for establishing housing requirements (that takes into account constraints) should be introduced?***

RESPONSE: [~~Yes/No/Not sure~~]. The standard method approach is not up to the important task of properly assessing the required number of new homes both nationally and area by area. An evidence-based evaluative process is required, able to quickly consider appropriate evidence and then make a decisive judgement in conclusion. This process should be based on appropriate regional/sub-regional geographies. The judgement should draw on evidence of population trends moderated by information on economic factors, demand, specific affordable housing needs and other localised influences on housing needs.

Although it is right for the Government to raise the need to consider constraints such as Green Belt, AONBs and National Parks, the impacts of these considerations vary greatly from place to place and it is very unlikely that the standard method can properly address them to determine a suitable housing requirement. This underlines the need for an evidence-based evaluative process to replace the flawed standard method.

***Q8(b). Do you agree that affordability and the extent of existing urban areas are appropriate indicators of the quantity of development to be accommodated?***

RESPONSE: [~~Yes/No/Not sure~~]. Please see our comments on 'Changes to the Current Planning System.' The focus should be on ensuring the delivery of genuinely affordable homes, through proper local needs evaluation and investment in affordable housing.

#### **Proposal 5**

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

***Q9(a). Do you agree that there should be automatic outline permission for areas for substantial development (Growth areas) with faster routes for detailed consent?***

RESPONSE: [~~Yes/No/Not sure~~]. The City Council does not agree that there should be automatic outline permission for areas for substantial development. Growth should ensure development is sustainable, results in mixed and sustainable places and addresses community feedback. The proposed system would fail to do this by focussing most decision making at the plan making stage.

Greater weight and authority should be given to Local Plan allocations which set the principle of development and also allow the matters above to be addressed. This is sufficient to provide certainty whilst enabling important development considerations to continue to be addressed through planning applications at the point when proposals are closer to being realised. Outline permission direct from plans is not necessary or appropriate.

***Q9(b). Do you agree with our proposals above for the consent arrangements for Renewal and Protected areas?***

RESPONSE: [~~Yes/No/Not sure~~]. For the reasons stated above. The proposals also reduce the potential for local communities in 'growth' or 'renewal' areas to engage with development proposals, whilst protected areas will continue to have the processes operating now. This is considered unequal and harmful to social inclusion in that those communities in protected areas will have greater opportunity to influence their immediate environment than those living in areas of growth or renewal. It is likely in Bristol that areas to be identified for growth or renewal are those with higher levels of social deprivation and historically lower levels of resource and time for community engagement. These communities are often under-represented in plan-making and development processes.

***Q9(c). Do you think there is a case for allowing new settlements to be brought forward under the Nationally Significant Infrastructure Projects regime?***

RESPONSE: [~~Yes/No/Not sure~~]. New settlements may be solutions to local housing needs but they would not constitute nationally significant infrastructure. The delivery of new settlements could be supported by appropriate new vehicles – NSIP is not considered the appropriate vehicle. Appropriate vehicles which bring local authorities together should be considered for the delivery of strategic scale development which needs a broader perspective but which remains subject to local decision making.

***Proposal 6***

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

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

RESPONSE: [~~Yes/No/Not sure~~]. The planning application decision making process is already significantly digitised and paper-less but greater digitalisation would be welcomed. Significant investment in LPAs will be required in order to make this happen.

Whilst shorter and more standardised applications would be welcomed, limiting applications to one key standardised submission of no more than 50 pages is not likely to be realistic for 'major' applications, as it will not normally be possible to assess the impact of a proposal against a range of issues in such a short document.

Automatic refunds of planning application fees (if not determined within time limits) would put more pressure on LPA budgets and could lead to the unintended consequences of more applications being refused in order to avoid a fee refund. The current Planning Guarantee arrangements already hold LPAs to account in determining applications within a reasonable time, including the need to agree any extended time period with applicants. Deemed approval arrangements could also lead to the unintended consequence of such applications being refused before they become automatically approved.

As a result of the above, the number of planning appeals could significantly increase.

Automatic rebate of planning application fees if appeals are successful would be disproportionately punitive towards LPAs. There are already adequate arrangements for appellants to claim their costs back from LPAs if they have acted unreasonably. Sometimes planning applications are refused, including by planning committees, following a careful balancing of issues and this approach is completely legitimate under planning legislation and the NPPF. If a planning inspector strikes the balance slightly differently and allows such an appeal, it would be unreasonable to then require the LPA to refund the planning application fee.

Community consultation and engagement at the pre-application and application stage should be retained and enhanced. Engagement at all stages of the planning process is important in ensuring local residents feel they are fully involved in the development of their area.

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

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

RESPONSE: [Yes/No/Not sure]. However, centrally devised approaches can be rigid and slow to innovate. Approaches should be subject to a process of continuous improvement, shaped by local authority feedback.

These changes will need to be accompanied by the necessary resources to implement them – Government must provide the necessary funding improvements.

***Proposal 8***

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

***Q12. Do you agree with our proposals for a 30 month statutory timescale for the production of Local Plans?***

RESPONSE: [~~Yes/No~~/Not sure]. Faster Local Plan making is strongly supported; the principle is correct. 30 months for any plan, anywhere, is likely to be overly rigid and fails to reflect the variety or complexity of local authority areas. A system which allows for plans to be produced to an agreed timetable between 24 to 36 months may be more realistic.

A streamlined system must be supported by regulations which enable faster plan production. Local authorities have clear ideas about how to streamline regulatory processes and their views should be taken into account when preparing the national regulations which apply to Local Plans (this is also relevant to Proposal 23).

### **Proposal 9**

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

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

RESPONSE: [~~Yes/No~~/Not sure]. Neighbourhood Development Plans focussed on enabling development to meet the needs of areas are supported. Local authorities should be given a stronger role in supporting such plans and the resources – i.e. central government funding - to offer that support.

***Q13(b). How can the neighbourhood planning process be developed to meet our objectives, such as in the use of digital tools and reflecting community preferences about design?***

RESPONSE: NDPs should be accessible in the same way as Local Plans and to be hosted on the same platforms as the remainder of the Development Plan. This will need additional funding for NPFs to give them additional practical and training support to produce their proposals in the digital context.

If NDPs become the vehicle for Design Codes this is likely to add to the length of time taken for plans to be developed. NPFs will need clarity from the start as to what the appropriate parameters are for design codes and how this is addressed in NDPs.

Existing processes of NPF and area designation should be retained, along with the referendum process.

### **Proposal 10**

***A stronger emphasis on build out through planning***

***Q14. Do you agree there should be a stronger emphasis on the build out of developments? And if so, what further measures would you support?***

RESPONSE: [~~Yes/No~~/Not sure]. There should be a stronger emphasis on the build out of developments as delivery on the ground is key to meeting housing need. Sometimes delivery is thwarted by applicants receiving a resolution to grant permission and then not progressing the s106 in order to effectively extend the life of the “permission”. The NPPF could introduce a 12 month deadline for the completion of s106 agreements following a resolution to grant permission, after



which the application would be cancelled. This would help prevent developers and landowners failing to move forward with permissions with no intention to deliver in the near future.

## **Pillar 2 Overview**

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

RESPONSE: [~~Not sure or indifferent / Beautiful and/or well-designed / Ugly and/or poorly designed / There hasn't been any / Other – please specify~~]. Development has been generally well designed when it has come through the planning application route. However, national policies have not always supported local authorities in insisting on the high standards required to deliver beautiful, healthy and sustainable buildings and places.

### **Q16. Sustainability is at the heart of our proposals. What is your priority for sustainability in your area?**

RESPONSE: [~~Less reliance on cars / More green and open spaces / Energy efficiency of new buildings / More trees / Other – please specify~~] Bristol has declared climate and ecological emergencies. The priority is to mitigate, adapt to and be resilient to climate change. To be truly sustainable all measures should be addressed. Different sustainability measures are generally mutually supportive when considered together e.g. reducing flood risk and increasing green infrastructure are good for urban cooling, well-being, safety and biodiversity.

Planning must help tackle the climate emergency: the planning system must be designed to help deliver the low carbon, climate resilient places that are needed to meet environmental objectives. Rapid change in technology and capacity for response and adaptation locally is needed to address climate change. Ability to address through local policy is necessary to drive the most effective and efficient response.

## **Proposal 11**

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

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

RESPONSE: [~~Yes/No/Not sure~~]. This is supported in principle but the proposed approach is very residential and aesthetics focussed. The proposals are not clear how these matters relate to other land uses and the wider aspects of place making. There is a need for greater attention to how a development functions, its relationship with the spaces around it, how it responds and adapts to climate change, and the required infrastructure and supporting requirements such as open space. Mechanisms for making design codes more binding would benefit from clarification, including the approach to area wide design and development guidance.

A preferred approach would be to have internal liveability **standards** applicable to all residential development (with scope to generate similar health and wellbeing focussed standards for other land

uses). The parameters for external function and appearance would then be addressed by **codes or area design and development guidance** - which would have greater scope for community and architect/designer input.

The aim for a predictable outcome should not result in undue prescription in terms of what is coded. This would risk promoting overly cautious design and undermining creativity and innovation.

Genuine community engagement is supported; there will be significant resource implications for this.

**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.***

***Q18. 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?***

RESPONSE: [Yes/No/Not sure]. The role of a chief officer for design and place-making is supported.

The outcomes proposed for the new body could be achieved by increasing the role of existing bodies such as review panels.

**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.***

***Q19. Do you agree with our proposal to consider how design might be given greater emphasis in the strategic objectives for Homes England?***

RESPONSE: [Yes/No/Not sure]. Agree in principle, but this must not focus only on visual quality. Equal attention is needed for functional and environmental performance i.e. the spatial planning, general land efficiency of development, the public realm and how to ensure growth delivers wider benefits.

**Proposal 14**

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

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

RESPONSE: [~~Yes/No/Not sure~~]. Definition of beauty is complex and could be seen to ignore other important aspects of design such as environmental standards, biodiversity, green infrastructure and the wider considerations of good place making. The objective should be to ensure a streamlined system across the board, with sustainable forms of development emerging through the process. A fast track for a narrow focus of development is considered unhelpful having regard to the complex interrelationships between all aspects of design, development viability and developer intentions, especially in the context of urban areas.

‘Permitted development’ has been extended too widely (for example, creating homes with insufficient daylight and outlook, and the impacts of the ‘z’ use class) and it is important that, where relevant, all aspects of design form the considerations of prior approval. ‘Permitted development’ should accord with design codes and area design and development guidance. Otherwise, ‘permitted development’ will undermine the objectives of creating better and more beautiful buildings.

***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***

***Q. No consultation question:***

RESPONSE: The City Council is generally supportive of ensuring that the NPPF 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. However, an ability to address through local policy is necessary to drive the most efficient and effective local response.

***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***

***Q. No consultation question***

RESPONSE: The proposal for a quicker, simpler framework for assessing environmental impacts is supported in principle but this must be robust and based on adequate information to understand the impact on biodiversity. Local authorities must also be adequately resourced to maintain and strengthen the necessary expertise to deliver biodiversity net gain and other Environment Bill responsibilities.

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

***Q. No consultation question***

RESPONSE: The existing approach set out in legislation, regulations and guidance is considered to be generally functioning effectively but consideration of how to address climate change and continued use of listed buildings would be welcome. The City Council awaits the government’s proposals with interest and looks forward to sharing this council’s perspective and ideas.

***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.***

***Q. No consultation question***

RESPONSE: Local standards for environmental performance set out in Local Plans have driven improvements to sustainable design and construction. The capacity for such approaches should be retained within the planning system to ensure innovation. Much greater attention to adaption to climate change is also required and this can be secured through local policies and standards.

Please refer to Bristol City Council's comments on Building Regulations Part L / Future Homes Standard Consultation; the proposals were very concerning, and did not achieve the zero carbon future we need to tackle climate change.

The standard should have commenced in 2016 (Code for Sustainable Homes,) and now it is indicated for 2025. Far greater urgency is required in terms of both the climate emergency and ecological emergency.

***Pillar Three – Overview***

***Q21. When new development happens in your area, what is your priority for what comes with it?***

RESPONSE: [~~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~~] Development should be accompanied by the full range of infrastructure, green infrastructure, services and facilities required to support it and to mitigate its impacts on the environment and the wider community. It should address climate change and provide net gains for biodiversity. Housing development should include an appropriate proportion of genuinely affordable housing.

***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***

***Q22(a). Should the Government replace the Community Infrastructure Levy and Section 106 planning obligations with a new consolidated Infrastructure Levy, which is charged as a fixed proportion of development value above a set threshold?***

RESPONSE: [~~Yes/No/Not sure~~]. Bristol City Council has an open mind on the introduction of a new Infrastructure Levy. If what is proposed would be quicker, simpler, and less complex than the current Section 106 and CIL regimes, and if it would result in an increased level of funding for affordable housing and infrastructure, then we would support the proposed approach.

The proposed levy seems to be largely predicated on residential development for sale. However, there are many types of residential development that are not sold once completed, such as student

accommodation, build to rent schemes, nursing and care homes etc. There are also many non-residential types of development which would need to be considered in introducing the proposed levy which all have costs, values and required profit margins that are very different to those associated with residential development.

There will be developments that fall below the value threshold, which nonetheless require specific localised measures that cannot be dealt with by planning conditions to mitigate their impact. A mechanism will need to be in place to enable councils to secure such measures in cases where development is not subject to the proposed levy.

Section 106 Agreements often contain non-financial obligations, which cannot currently be dealt with via planning conditions. Examples include restricting the use of land, providing and maintaining open space, requiring connections to current or future heat networks etc. They can also be used to deal with required mitigation in neighbouring authorities. Of particular relevance is the role of Section 106 Agreements in requiring that affordable housing is provided in perpetuity, providing clarity as to which properties are affordable and identifying the type and tenure of each affordable property.

If the new infrastructure is to avoid getting bogged down in such complexities, we recommend that once the levy has been paid and occupation has taken place, there is no opportunity for repayments to be claimed, due to subsequent amendments resulting in a theoretical reduction in the levy liability.

In introducing the proposed levy, government will need to consider how it intends to deal with development by charities, self-builders and social housing providers delivering 100% affordable housing schemes.

Bristol City Council is very concerned that the governments' aspiration for simplicity may have significant adverse unintended consequences if these issues are not properly considered. It is important to maintain the localised approach enabled by CIL where communities can shape and influence investment, and the important links to the neighbourhood planning process.

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

RESPONSE: Locally. Bristol City Council considers that the levy should be set locally, for the following reasons:

- The levy rate will be reflective of the market conditions in Bristol, and therefore will be more sensitive to local circumstances; and
- Wherever possible, policies should be made and decisions taken, as close as possible to the communities that they impact on, rather than being imposed centrally. This is more democratic and transparent and enables local communities and stakeholders to engage in the relevant processes.

The rates should not be set nationally at a single rate. Whilst it might seem a simple and attractive approach; doing so would be highly likely to result in one of the following outcomes:

- either significant areas of the country falling below the set threshold and not securing much, if any, income from the levy, due to it being set too high for those areas; or
- the levy being set too low in order to accommodate low value areas, meaning that high value areas would miss out on significant levels of levy funding, that instead would remain as additional profit to the landowner or developer.

**Q22(c). Should the Infrastructure Levy aim to capture the same amount of value overall, or more value, to support greater investment in infrastructure, affordable housing and local communities?**

RESPONSE: [~~Same amount overall~~ / More value / ~~Less value~~ / ~~Not sure~~.] Bristol City Council is strongly of the view that the Infrastructure Levy must aim to capture more value than the current system of CIL and Section 106 does. Developments frequently have much greater impacts than are addressed by the contributions they are currently obliged to make. Whilst we acknowledge that landowners need to make a profit when bringing land forward for development, the granting of planning permission can result in landowners benefiting from a very significant level of increased value. A greater proportion of this should be captured under the Infrastructure Levy in order to fund the infrastructure and affordable housing needed to support new development and the creation of mixed and balanced communities.

**Q22(d). Should we allow local authorities to borrow against the Infrastructure Levy, to support infrastructure delivery in their area?**

RESPONSE: [~~Yes/No/Not sure~~]. Bristol City Council can currently borrow for a capital purpose in accordance with the prudential code and have done so in the past to facilitate regeneration, redevelopment and stimulate market appetite.

While borrowing against the Infrastructure Levy supports the delivery of such developments it would result in a cost to the Council compared to the current system. Effectively the borrowing costs and associated risks are being transferred from the developer to the Council. Therefore, if councils were to be allowed to borrow against the Infrastructure Levy, a mechanism would be necessary to recover these costs from Central Government, or a facility of short term interest free loans linked to this levy should be made available.

**Proposal 20**

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

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

RESPONSE: [~~Yes/No/Not sure~~]. Our view is that even if the Infrastructure Levy is not introduced, existing regulations should be amended to enable planning obligations to be secured from developments granted for changes of use through permitted development rights.

In particular, the conversion of office buildings to residential use, as well as having created some poor quality accommodation for their future residents, creates a very different set of infrastructure requirements (e.g. school places, open space provision etc.). As councils do not have the ability to

secure these mitigating measures, or to require affordable housing from permitted development schemes, these developments are in effect being subsidised by the public purse.

### **Proposal 21**

#### ***The reformed Infrastructure Levy should deliver affordable housing provision***

***Q24(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?***

RESPONSE: [~~Yes/No/Not sure~~]. Bristol City Council's view is that at the very least, the Infrastructure Levy needs to be both simpler than the current Section 106 and CIL regimes and able to deliver at least as much affordable housing and supporting / mitigating infrastructure. These two principles should be fundamental to its introduction, as if it is not both simpler than the current system and able to deliver at least as much, then there is no benefit to it.

***Q24(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?***

RESPONSE: [~~Yes/No/~~ Not sure.] Bristol City Council is strongly of the view that affordable housing (Social Rent, Affordable Rent & Shared Ownership) should be provided on-site, in all bar the most exceptional circumstances. However, we acknowledge that other councils may take a different approach. Therefore, in introducing the Infrastructure Levy, we believe that on sites of 10 or more dwellings, the ability to decide whether on-site or off-site affordable housing is to be provided should be in the hands of the Council. Our view is that councils should have discretion on a case by case basis as to whether affordable dwellings are to be secured via an in-kind payment or as a right to purchase. This is for the following reasons:

In the majority of cases Bristol would wish to see affordable housing provided on-site as part of the relevant development. This is important for the delivery of mixed and balanced communities, where affordable housing sits alongside open market housing. In such cases an in-kind approach would be most suitable.

However in cases where the development was a retirement type scheme, our experience is that these developments do not lend themselves to on-site affordable provision, and therefore we would want the ability to have a right to purchase, in order that we could sell the units on and invest the receipts in affordable housing elsewhere in the City.

There are also cases where a development comprises properties that do not deliver the affordable housing need of that particular area of the City. For example, there may be a scheme of one and two bedroom flats in an area of the city where there is a surplus of such accommodation but a need for larger family dwellings. In such cases, we would also want the ability to have a right to purchase, in order that we could sell the units on and invest the receipts in the type of affordable housing that delivers housing appropriate to the needs of the area.

There are implications to either approach, particularly in respect of the relationship between councils and Housing Associations. Issues that government should consider include:

If the right to purchase option is used, then this impacts on the ability of Housing Associations to competitively bid for affordable dwellings. There would also be nothing requiring councils to subsequently sell affordable dwellings on to Housing Associations. This would have a significant impact on Housing Associations business plans.

Guidance may be necessary to set out any parameters for councils in respect of the right to purchase approach. For example, could councils rent out the properties purchased, at market rent, in order to generate a consistent income stream that could be used to fund affordable housing?

We consider that councils should be required to exercise their option during the planning application process, so that at the point that a planning consent is granted, the applicant has clarity as to which option will be pursued with respect to affordable housing provision.

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

RESPONSE: [Yes/~~No~~/~~Not sure~~]. This is particularly relevant if the Levy rates are set nationally rather than locally. If a nationally set levy rate results in a developer being required to provide affordable housing to an in-kind value that is greater than the total levy liability for the development, then clearly the levy will not have been set at an appropriate level. Bristol City Council is strongly of the opinion that councils should not be penalised by having to refund any overpayment by the developer, when the council was not in control of setting the levy rate in the first place.

***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?***

RESPONSE: [Yes/~~No~~/~~Not sure~~]. Bristol City Council is of the opinion that a Section 106 (or some type of alternative) Agreement would still be required. This is because councils need to ensure that the affordable housing provided is in accordance with the housing need of the area. Therefore a legal agreement would be required to specify the type and tenure, location within the development and minimum size of the affordable dwellings to be provided. It would also specify any relevant design codes / building regulations standards that needed to be complied with. This would enable councils to achieve the right type of high quality affordable housing that contributed to delivering the housing needs of the area.

***Proposal 22***

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

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

RESPONSE: [Yes /~~No~~ /~~Not sure~~]. Bristol City Council believes that the Neighbourhood Share of CIL has been a positive mechanism for delivering the local infrastructure priorities of those communities impacted on by development, and we believe that the new Infrastructure Levy should retain a Neighbourhood Share. If government intends to legislate as to the percentage of this share, then it will need to be made clear whether the Neighbourhood Share is a percentage of the total levy for



each development, or a percentage of what is remaining once the amount ring fenced for affordable housing is accounted for.

As to whether the new levy should have fewer restrictions applied to how it is spent, Bristol City Council, in common with the vast majority of local authorities, has a significant infrastructure funding gap. Consequently, we consider that it is right that the levy is applied to infrastructure to support growth and the provision of affordable housing. Without this infrastructure it will not be possible to deliver the growth set out in the Local Plan.

Consequently, we would not be supportive of the levy being available to fund Council tax reductions or general day to day revenue expenditure. However, we do consider that councils should be able to take a proportion of Levy receipts in order to cover costs associated with its implementation, administration and enforcement, as is currently the case with CIL. We are also of the view that councils should be able to use a proportion of the Levy to fund the production of Local Plan and other policy documents that will enable the delivery of the growth required in their areas.

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

RESPONSE: [Yes/~~No~~/~~Not sure~~]. Bristol City Council considers that a “ring fence” is necessary to provide clarity to all parties, e.g. applicants, developers, housing associations etc. It will also provide more financial certainty as to the proportion of levy receipts available for infrastructure other than affordable housing.

However, there needs to be clarity provided as to whether the ring fence would relate to only the levy received from those developments that are required to provide affordable housing, or whether it would relate to all developments including those that did not comprise residential development. For example, if in a hypothetical situation, it was required that 40% of levy receipts would be ring fenced for affordable housing, and an office development was required to make a levy payment of £500,000, would £200,000 of this sum go towards the provision of affordable housing?

If so, this could not be done via the “in-kind” approach, but would require the “right to purchase” approach. This could have significant implications if councils were limited to only one approach. This is one of the reasons why Bristol City Council believes that both options should be available to councils in order to effectively deliver affordable housing across the City.

It should be noted that the capacity to deliver Affordable Housing will be significantly compromised by the proposed introduction of First Homes and introduction of the raised threshold for provision on housing sites. This proposal would result in significant reduction in number of homes available to meet local social housing need (The affordable housing need for Bristol is identified as Social Rent affordable housing (88% of need) and Shared Ownership affordable housing (12% of need). Please see our response to Changes to the Current Planning System where we explain this issue.

***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.***

***Q. No consultation question***

RESPONSE: The City Council looks forward to being consulted on proposals for improving the resourcing of planning departments. Such improvements are necessary enable a planning system which addresses development needs, ensures the delivery of new and affordable homes and tackles climate change and biodiversity. A review of outdated regulations is welcomed.

***Proposal 24***

***We will seek to strengthen enforcement powers and sanctions***

***Q. No consultation question***

RESPONSE: The intention to strengthen enforcement powers and sanctions is welcomed. Communities care about the quality of their environment and the delivery of compliant development proposals. Where resources are not available to respond to issues raised by local residents this both disenfranchises and discourages community engagement with the planning process.

***Equalities impacts***

***Q26. 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?***

The City Council is concerned that the proposals for changes to community consultation and reduced local democratic decision making may disadvantage and disengage certain groups, particularly those living in proposed 'growth' locations. In general, this may result in less advantaged populations being subject to the less stringent decision making arrangements in growth areas, with more affluent areas remaining subject to the requirements of full planning applications.

The proposals, taken as a whole, do not sufficiently address and resolve the urgent need to increase the levels of genuinely affordable housing. This disadvantages a wide range of people from across the protected characteristics.

The extent of focus on housing, rather than the consideration of sustainable development as a whole, is also likely to result in disadvantage to people from across a range of protected characteristics.