



Royal Borough of Kensington and Chelsea: Consultation Response to Planning for the Future White Paper

Pillar 1: Planning for Development

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

Flexible, spatial and in the public interest

2(a). Do you get involved with planning decisions in your local area? [Yes / No]

Yes – Local Planning Authority

2(b). If no, why not? [Don't know how to / It takes too long / It's too complicated / I don't care / Other – please specify]

NA

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]

NA

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]

Environment, affordability and design.

5. Do you agree that Local Plans should be simplified in line with our proposals? [Yes / No / Not sure. Please provide supporting statement.]

No. The Council supports Government's ambition to simplify Local Plans. However, we seek reassurance that new Local Plans will allow sufficient flexibility to account for local and regional variation.

We are concerned that Local Plans that require three development zones and eliminate local Development Management policies could introduce an unwanted homogeneity to the built environment and distance local people from the planning process.

For the reasons set out below, the Council has qualified support for the third option set out by the White Paper – whereby we limit automatic outline planning permission in the growth areas, with development elsewhere being determined by the Local Planning Authority (LPA) using its own slimmed down development plan. This approach would drive forward the much-needed development – without alienating the local community. This reflects the value that these larger sites have in meeting development needs.

The Zonal system

We are concerned that the zonal system considers housing delivery in a vacuum - and that even on these terms it may not succeed. We think it is important to retain and enhance the Local Plan's role in place shaping and setting a vision for an area. A coherent strategy is essential if we are to create the places which local people demand - places which provide the homes needed but which also reflect the wider needs of the local community.

We recognise that there is some value in identifying **growth areas which are suitable for substantial development**. These are the areas which will deliver the great majority of the new homes needed by this borough. However, any certainty associated with the "growth area" designation would appear to differ little from that offered by the current land use allocations for the very same sites.

Indeed, we will not be unusual in working closely with the relevant landowners through development briefs or Opportunity Area Planning Frameworks (OAPF). Such documents will include the quantum of development, the design parameters, and in the case of the Earl's Court OAPF, building envelopes. The current system which then requires a full planning application to assess the proposal (including against the NPPF and any allocation or adopted development brief) allows an LPA to understand local views and to fine tune the proposal accordingly.

The designation of "**renewal areas**" which involves the vast majority of land designation for most councils is the area where we see the proposed system struggling to deliver on its intentions. Our experience suggests that a large proportion of sites that come forward in these areas will be unexpected (windfall sites). By way of evidence the London-wide Strategic Housing Land Availability Assessment (SHLAA) undertaken in 2017 identifies the potential sites in the Borough. This was produced in close engagement with the Council but the SHLAA attributes in our case, about 36 per cent of homes being delivered on small windfalls sites. The majority of these windfalls will require full planning applications but will lack detailed site brief or design codes. The only tools available under this new system will be generic nationally set Development Management policies.

Whether being assessed through prior approval or as a full application an LPA must have a framework by which such applications can be assessed.

We are concerned that the proposed system of zones, associated with permissive permitted development/ prior approval/ presumption in favour of development will increase land values. This is likely to be particularly pronounced in high value areas where there is a huge difference in value between residential and all other uses.

Evidence in the Borough concludes that modest difference in values is incentive enough to precipitate a change of use to a higher value use. This will further exacerbate not reduce affordability issues in the Borough.

There is a need to more tightly define what the Government sees to be the appropriate nature of development in the renewal areas. What is described as “infill of residential areas” or “gentle densification” could mean one thing to a landowner or property developer and another to a local community. The Government could indicate baseline levels and this certainty will be welcome by all, as it will help ensure that expectations can be properly managed, and decisions made in a consistent manner.

We would also caution against a significant difference in the planning regime between a renewal and a protection area. Both should have a common set of planning policies. Zones can easily run down the middle of a residential road in the case of conservation areas and it would be unfortunate if clear divisions existed between the two. Caution needs to be exercised in ensuring that this is not viewed as a derisive feature otherwise we could dilute or lose the mixed communities that make our borough such a unique place to live, work and learn.

We welcome the opportunity to make LDOs for a given site or area where appropriate. However, this should be an option rather than a requirement.

We welcome the ability to designate “**protection**” areas and the explicit recognition that these areas must be subject to more stringent development controls. We also welcome the recognition that conservation areas are likely to form a component of these protection areas. However, we would caution against the reliance of design patterns to determine proposals in these areas. By their very nature they will require a detailed and bespoke approach if we are to avoid homogeneity and bland development which does not reflect the special character of an area.

The idea in the White Paper for a finer grained approach, in addition to the three simple zones is supported. The White Papers states that, *for example, it may be appropriate for some areas to be identified as suitable for higher-density residential development or for high streets and town centres to be identified as distinct areas* is supported. This could work together with specific local planning policies to manage change and help support their vitality and viability which is central to the current Local Plan. Such centres including neighbourhood centres are vital to supporting local communities.

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.]

No. We welcome the principle of the production of more concise Local Plans, documents which shape the nature of new development in an area and which do not merely repeat or re-package national policies. However, rather than the suggestion that a Local Plan contains land use allocations only we support the second alternative option put forward within the White Paper. This would allow a LPA to include a limited suite of development management policies where these do not duplicate those within the NPPF. Otherwise the system will be so rule based with centralised planning policies that it will not be able to respond to real concerns. It could mean that a

developer (or mere neighbour) will have the right to do whatever they like irrespective of the harm to others if they meet the high-level rules. Surely there needs to be some balancing in the system whereby if a development creates significant harm to others, their concerns can be addressed locally.

The replacement of the majority of planning applications with Permission in Principle or with Prior Approval applications could also greatly reduce the role of our elected members in the decision-making process. This is regrettable as it reduces the role of local democracy in helping shape development. A better and more consistent solution would be to have a mandatory pre-application process in place which is managed by the Council. This would provide communities a better opportunity to shape development, not oppose it, as it comes forward.

Kensington and Chelsea has a number of policies which are not relevant to much of the rest of the country. These are all policies which were found to be sound at a Local Plan examination and address some of the uniqueness of a borough in central London. Some of these are set out below, with some explanation of why these policies are necessary. Whilst some may be relevant for other high land value city centre areas none will have a country-wide relevance.

- Policy CL7 Basements. Given the extraordinarily high land values, landowners have found it cost effective to seek permission to construct very large underground extensions. The construction of these can have a real effect on neighbours, upon neighbouring properties and upon the hydrology of an area. The policy is intended to stop the excesses of such development.

It has proved very effective and has greatly reduced the conflict between residents and those implementing basement developments. It has greatly reduced complaints and has proved cost effective, in that the necessary monitoring is now paid for through the developments itself. This was made possible by another bespoke document for the Borough which sets out our Code for Construction Practice.

- Policy CH5 Employment Zones. As the few remaining concentrations of business uses in the borough, our Employment Zones offer opportunities to bring forward new employment floorspace alongside housing. The high values possible for new residential uses can enable the delivery of new businesses which would not come forward on their own. This has proved very successful with some 13,000 sq m of new office space coming forward in mixed use developments in our Employment Zones over the last few years. This is a significant proportion of our Objectively Assessed Need (OAN) for employment floorspace.
- Protection of employment uses. A high-level national policy has to be drafted to deal with each eventuality across the entire country. A local policy can be explicit. It can state, for example, that the loss of an office to a home will not be acceptable. Equally it can make it clear exactly what changes of use will be supported in what circumstances. If we don't have such protective policies in high value areas, we will endanger economic uses in the Borough. We have, for example, a high concentration of music industry which could be lost if landowners try to maximise land values by converting to residential.

- Policy CF9 Temporary Sleeping Accommodation. This borough has a large stock of short term lets. This reflects the extraordinarily high rental values of such properties in a central London location. These short term lets have a detrimental effect on the supply of permanent homes. This will not be the case across the country.
- Policy CF10 Diplomatic and Allied Uses. The Borough is one of the few in the country which has considerable pressure for new diplomatic uses. A policy has proved effective in limiting these uses to certain defined areas.
- Policy CH1 Amalgamations. The Borough is unusual in there being considerable demand for the amalgamation of smaller units to create single large units. Unchecked, amalgamation had resulted in the loss of some 60 homes each year counting against our housing delivery and impacting on how we perform in the housing delivery test that the Government intends to keep. A policy was adopted last year to contain amalgamation and to maintain our housing stock. The desire for amalgamation was driven by the special circumstance of the Borough, whereby super-prime homes reached extraordinary values. This will not be the case across the country, and so amalgamation policy would not be necessary. Indeed, in many parts of the county the amalgamation of small units might be welcomed.
- Policy CH2 Affordable Housing. This borough has an insatiable need for affordable housing (our term for this is community housing) of all types. Property values are also such that a contribution towards community housing will not jeopardise the viability of even smaller schemes. As such we have a policy which requires the provision of a contribution towards community housing for any residential proposal of 650 sq m or more. This policy was examined at a Local Plan examination and found to be sound. This would not be the case elsewhere.
- Policy CL12 Building Heights. The relatively modest and consistent height of buildings within Kensington and Chelsea characterise the Borough. We have a borough specific policy that sets the framework for appropriate building heights in the Borough.

Any other local authority would have their own bespoke policies which would reflect their own circumstances.

Having locally determined development management policies can provide the detailed criteria against which an application can be assessed. This offers certainty to developers as to what may or may not be acceptable. By the same token this also reduces the number of appeals and the resources needed to determine them. Once again, the Council's basement policy is a useful example of the value of locally determined policies. In the five years before the adoption of the policy 266 applications were refused, with the associated appeals. In the three years following adoption this dropped to just 45 refusals and 352 permissions.

This will be of relevance with the "protection areas", and those parts of the renewal areas where there will be a reliance on windfall sites and no development briefs or design codes.

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.]

Yes. The statutory tests of soundness provide a useful framework to test Local Plans at present. The existing tests of soundness can still form a useful checklist in ensuring that the Local Plan will achieve what it is intended to do. We welcome a relaxation of the requirements of the SA/SEA in the plan making process. This has become a largely procedural process, it is time consuming, expensive and unwieldy, can add some months to the delivery of a Local Plan, but which adds little value.

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

We recognise the importance of working closely with neighbouring boroughs to help ensure that the needs of the wider region are addressed. In our borough this can be done through the GLA and the London Plan. In particular the London Plan provides a framework to assist in the delivery of the homes which the capital needs through borough specific housing targets. The London Plan examination process provides the mechanism by which these can be properly tested.

The continuing role of spatial development strategies such as the London Plan is unclear from the White Paper, so further clarity is requested on this. The London Plan represents an effective level of coordination which would be difficult to replace by a Duty to Cooperate or some other mechanism. However, if housing capacity could be taken into account at local level, so that a realistic and deliverable housing target could be calculated then this would not be necessarily have to be done through the GLA and the London Plan process.

It is also essential that waste planning can continue to be carried out at a multi borough level, as an inner-city borough such as ours does not have the sites available to deal with its own waste arisings. However, the London Plan still has a level of detail which is unnecessary going beyond strategic matters at times whereas there are areas where a more robust strategic role could be played such as waste arisings and how they are dealt with.

As the White Paper aims to speed up delivery, a significant concern is the role of the GLA with regard to the call-in of strategic planning applications overriding local power of determination which has led to significant determination delays. The Holiday Inn application in Gloucester Road is a prime example where the Mayor issued the decision prematurely and as a result High Court action had to be taken to quash the decision. With an appeal system in place and the power of call in from the Secretary of State there is no compelling need for the Mayor to be involved in what are essentially local matters. The system would benefit from the deletion of this additional, unnecessary layer.

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.]

No. The Council is deeply concerned with the standardised method for establishing housing requirement figures. We support the alternative option to leave the calculation of how much land to include in each category as a local decision.

We do not agree with the methodology that expects areas with the worst affordability to release the most land. As a result, this should be capped as per the current method. It is not the planning regime that is responsible for the issues of affordability in these areas, but the basic economic concept of supply and demand is at play here, with land that is heavily constrained in the first place impacting on supply. It is simply not possible to build enough additional homes to bring the supply to the level demanded, unless we allow wholesale demolition of existing high-density housing stock at a pace and scale resembling the post-war period. We do not regard this as realistic or - given its impact on the character of the borough – desirable.

We note that it would be possible for Mayors of combined authorities to oversee the strategic distribution of the requirement in a way that alters the distribution of numbers. This would suggest that it would be possible to distribute housing numbers on a pan-London basis. The Council would support that, but we note that the numbers generated for London using the standard method are exponentially higher (93,532) which is 42 per cent higher than those accepted by the Panel of Inspectors in the recent examination of the New London Plan (66,000). The annual growth rate for London's housing stock would be 2.6 per cent as opposed to 1.2 per cent for England which is an unreasonable expectation given how densely developed London already is.

The White Paper says that the standard method would enable "*the least affordable places where historic under-supply has been most chronic take a greater share of future development*". Kensington and Chelsea is the least affordable place in the whole country based on the affordability ratio which stands at 39.62. The unconstrained standard method produces a housing figure for the Borough of 3,285 new homes per annum. This is the equivalent of delivering a new opportunity area site every year such as the one we have in our borough – Kensal Canalside Opportunity Area. Given that the borough is the smallest in London at only about 4.5 sq miles with three quarters in conservation areas and densely built up, this is an impossible task.

The evidence undertaken in the London Strategic Housing Land Availability Assessment (SHLAA) 2017 identified the true capacity of what is deliverable in the Borough. This is based on identified sites and includes a factor for small sites. Following the examination of the emerging New London Plan the Borough's housing target is expected to be 448 homes per annum. The Panel of Inspectors carefully considered the targets for London and reduced them to about 52,000 homes per annum following examination. They concluded the targets were not realistically achievable and therefore not justified.

It is acknowledged that the White Paper suggests that we would be able to take account of land constraints including designated areas of heritage value, but it does not explicitly state conservation areas. Furthermore, the requirement to add an additional buffer remains. However, for a borough such as ours with very limited sites and most development (barring one opportunity area site) taking place on brownfield

land we do not have the flexibility to over allocate in this way. Therefore, we would request some flexibility to take account of specific circumstances in this regard.

Even if we assume that the unconstrained figure of 3,285 would be reduced by 75% on the basis of conservation areas, this would still produce a housing target of about 820 homes per annum. This target is almost double that in the emerging New London Plan, examined recently and evidenced through the SHLAA process and based on a realistic capacity given the nature of sites and the Borough. We also undertook a “call for sites” through the SHLAA process and no new sites were put forward by developers or landowners at that time.

We urge the Government to fundamentally rethink this aspect of their proposals and enable local authorities to set realistic targets based on land capacity. No amount of new housing will make Central London land values the same as elsewhere.

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.]

No. We do not agree on affordability being the overriding factor in increasing housing targets due to the reasons set out in our response to 8(a) above. We support using London as the area to distribute housing needs but can work within our borough boundaries as long as realistic targets are locally set based on land capacity.

9(a). Do you agree that there should be automatic outline permission for areas for substantial development (Growth areas) with faster routes for detailed consent? [Yes / No / Not sure. Please provide supporting statement.]

No. Granting an automatic outline planning permission provides similar benefits to the current site allocations process. Where sites are allocated in local plans there is already a presumption that they will come forward for development, with land uses and the principle of development outlined. This has the same impact as granting an outline consent.

The Government should consider and carefully evaluate what the automatic granting of outline consent would do to the land market and whether it would bring sites forward for development quicker than the present system which should be the ultimate goal of these changes.

Reduction in public involvement

We are concerned that the proposals will distance local people and other local stakeholders from the decision-making process. We recognise that residents are encouraged to become involved at the early Plan making stage. However, it should be recognised that people generally choose to become involved in anything when it becomes real to them.

Experience suggests that the Local Plan stage attracts a few hundred responses. Whilst the use of innovative digital consultation and deploying social media to publicise consultation could greatly extend this coverage, it could not replace responses received at the planning application stage particularly for those more controversial planning applications. By way of example, a recent scheme at Latimer Road in the Borough, the status of which is defined in the Local Plan and also set out in a neighbourhood plan with street specific policies. But residents of the street have

only begun to take a real interest when a specific application for a six-storey mixed use building came forward recently. Within days, a group a hundred strong had formed itself on social media, and they made their concerns known to councillors and our MP at an on-street meeting in July.

It would be far better to introduce a mandatory system for developer pre-engagement so that larger proposals could be shaped by the communities around them and they feel part of the process. Trying to front load all of this in the Local Plan will dilute the involvement of communities which may make them feel more distanced from the Planning process.

9(b). Do you agree with our proposals above for the consent arrangements for Renewal and Protected areas? [Yes / No / Not sure. Please provide supporting statement.]

No.

Renewal areas

We welcome the confirmation that any decisions relating to proposals within the Renewal Areas should remain “Plan Led” and recognise the role that a new style Local Plan can have in shaping the nature of development in an area. However, further explanation is required as the White Paper also states that there will be a general presumption in favour of development established in legislation. As stated in our response to Q5, we consider renewal areas to be the most problematic as there are no safeguards to ensure high quality development in the absence of local Development Management policies, design codes and design briefs on windfall sites.

Prior approval. This appears to be referring to the enhanced system of prior approval intended to ease demolition and the creation of additional storeys as set out in part 20 of the GPDO. An LPA can only consider a defined set of issues, which may not be those which concern nearby residents. However, we note that this process is now in place, and the statement within the White Paper that it will be monitored is one method for determining it is correct.

Fast planning application process. It is not clear what is being described. This does not appear to differ from the existing system in that a LPA will still consider, “*for what development or site is appropriate for, and with reference to the NPPF.*” The only change appears to be that the Council would determine the application having regard to the NPPF rather than any locally derived bespoke development management policies. For the reasons set out in answer to question 6 we do not support the loss of local development management policies.

Applications can be determined within the timescales under the current system. In this borough (since 2015) between 81% and 95% of standard planning applications have been determined in less than eight weeks. With three weeks necessary to consult, and the logistics of organising a site visit and determining, there is no further slack that can be taken up. We do not consider it is the planning process that has slowed down development.

Local Development Orders. This is a tool already available to Councils. Whilst rarely used, the Council recognises that there may be some circumstances when an LDO might be appropriate, but this route should be optional and not a requirement for an LPA.

Protected areas.

As noted in response to question 5 we welcome the ability to define those areas which should be protected. However, as noted in our response to question 6, it is essential that applications should be determined in accordance with both the policies within the NPPF and a smaller set of locally distinct Development Management policies within the Local Plan.

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.] –

Not applicable in the Borough as the largest available land we have are the two opportunity areas. These are still too small for a new settlement of the scale envisaged here.

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

No. As a general principle, making decision making faster and more certain is supported. However, the quality of applications and/or the lack of necessary information is more often the cause of the delay, rather than local authorities. Technology, new software and digital services could all help to address the shortcomings in the quality of submissions and where they achieve this, they could free up planning officers time to spend on assessing the merits of a proposal and delivering timely decisions.

This Council fully supports the digitisation of the planning system and would urge Government support in properly funding and investing in the modernising of planning. Indeed, the modernisation of case management software has the potential to transform development management processes with real efficiencies being delivered.

The delegation of detailed planning decisions to planning officers has the potential to undermine the democratic process and it should remain a local decision to set schemes of delegation. In some circumstances it may be entirely right for planning committees to make decisions on detailed matters and there should be sufficient flexibility to allow for this.

Introducing measures to incentivise decisions within statutory timeframes, such as fee refunds or automatic permission, are unlikely to speed up the process. Delays to decisions are normally due to lack of quality or missing information but also through negotiations and discussions between the applicant and local authority. These are bilateral discussions which can take considerable time as consensus is sought so the scheme can be amended to a point where it is acceptable. There is concern that the number of refused applications would increase and the endeavours of planning departments to work with applicants to find solutions would be undermined. This could lead to more appeals.

An automatic rebate on planning application fees if decisions are allowed on appeal is not supported. If an appeal is allowed it does not mean the local authority decision was wrong as a matter of fact. The existing system allows applicants to apply for costs to cover the appeal process where they consider the local authority to have acted

unreasonably. This seems like a perfectly fair and balanced system. Perhaps an alternative would be to allow an Inspector to also reward the developer a refund on their planning fee in addition where a very specific set of circumstances are demonstrated, such as the local authority has acted completely unreasonably.

The White Paper suggests on page 59 an intention to pass the obligation to protect the special interest of some Listed Buildings on to a third party. This is concerning as it would remove decision making from a democratically elected body. There would be a clear conflict of interest where external accredited consultants who could potentially also work for developers are involved in taking such decisions. If any such change is envisaged, it should be the subject of further detailed, and widespread, consultation.

Any system based on this approach would have to be transparent and accountable, with appropriate sanctions for misconduct. The loss of democratic accountability in decisions which might potentially affect some of our most significant and well known and loved buildings would nonetheless be extremely regrettable and go against the stated objective of increasing community participation.

11. Do you agree with our proposals for accessible, web-based Local Plans? [Yes / No / Not sure. Please provide supporting statement.]

Yes. We are very supportive of proposals for accessible and web-based Local Plans. We are at the beginning a New Local Plan review and therefore **would be keen to be one of the pilot authorities and work with tech companies (the emerging 'PropTech' sector) to develop innovative solutions.**

Encouraging greater participation in the planning process by local communities is an objective which we strongly support. Our recently adopted Statement of Community Involvement (SCI) commits to and recognises the growing role of digital engagement in planning with communities. We have used a digital engagement platform with great success in recent policy consultations and would like to build on this. We are mindful, nevertheless, that digital engagement is an addition to, not a replacement for, traditional consultation - which continues to successfully engage parts of our borough.

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.]

Yes. The Council is supportive of the 30 month statutory timescale for the production of Local Plans. However, we are concerned that the Local Plan process only seems to allow for a single stage of consultation. This is done at Stage 1 when all that is being considered are the three zones. The second time when the public is asked to comment on is at Stage 3 when the plan is already submitted for examination. Given that this new system is about setting the principle of development or granting automatic planning permission and in some cases deciding on the design envelope, the process does not allow meaningful public involvement in any of these matters.

The Council supports a more streamlined and flexible examination process which may enable examination in-person, by video and the right to heard at the Inspector's discretion. The Council also supports the alternative option that some non-controversial examinations may be dealt with via written representations.

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

We strongly support the principle of Neighbourhood Plan. However, their form should be made clear. Their content could be very different if the Local Plan were to be largely made up of allocation/ development guidelines rather than the detailed policies required to determine applications. Whilst we are of the view that detailed development management policies are of value, the content of a Neighbourhood Plan should reflect that within the Local Plan. This would be necessary were we to stop an anomaly whereby an proposal within an area covered by a Neighbourhood Plan could be assessed through local development management policies, whilst a proposal on an adjoining road, but outside the Neighbourhood Plan area will not.

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

A Neighbourhood Plan system which reflects the nature of new Local Plans will be very different from what we have at the moment. They require specialist skills which may not be readily available within the neighbourhood forums. There is a risk that under the proposed new system there could be greater dependence of the Neighbourhood Plan on the LPA. A better solution would be to offer much greater funding to Neighbourhood Plans Forums. This could assist them in the greater use of digital tools to draft and present the plan.

14. Do you agree there should be a stronger emphasis on the build out of developments? And if so, what further measures would you support? [Yes / No / Not sure. Please provide supporting statement.]

Yes. There is not enough recognition that LPAs grant enough planning permissions for new homes but once the permissions are granted, it is up to the landowner or developer to build out the development. In most cases planning permissions are not implemented straight away or may have started but stalled for various reasons. For instance, in this calendar year alone we have granted planning permission for nearly 700 new homes, close to our current London Plan target of 733 new homes per annum. However, we do not believe that the numbers of completions will reflect this. Therefore, the Government also needs to take steps to penalise developers/landowners who secure planning permission and not build out the permission.

We feel strongly that the housing delivery test should be measured against planning permissions not completions. As a Council we have taken a number of steps to increase housing delivery in our borough. This includes a dedicated team to proactively work on site specific briefs or SPDs. We have also engaged with our landowners/developers to encourage them to build. We strive to make our planning decisions within stipulated timescales and have a good track record of doing so. However, we feel that there are no penalties for developers/landowners for not doing their bit.

Pillar 2: Planning for beautiful and sustainable places

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]

Well designed – The land value in the Borough is very high. For this reason, most of the development that has happened recently has generally been of a high quality.

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] Only one box can be selected.

Other – all the above and energy efficiency of historic buildings

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.]

Yes. The Council supports the emphasis on creating beautiful places, and a proactive approach to design that sets a framework for developers to follow is undoubtedly the best way to set out the Council's expectations for a site and guide high quality development. We also support the recognition that a LPA should be ambitious in supporting new developments which play a positive role to the character of an area and which allow a "net gain" rather than merely "no net loss".

The White Paper states that design codes and guides could be brought forward by local authorities, neighbourhood planning groups and applicants. However, the document does not recognise the technical skill required to prepare such codes. A design code must be generated from a site layout or masterplan that takes into account all the relevant spatial, physical and policy constraints of the site and promotes development that is likely to be viable. This requires multi-disciplinary skills including design, policy, viability and transport. Codes prepared without experienced site planning skills would be limited to high level principles only and could risk fixing designs in the planning system that lack credibility and are not deliverable.

Developers on large sites will have the resources to properly masterplan sites and produce a design code. However, neighbourhood plan groups and local authorities are not likely to possess skills. Internally, local authorities also require adequate knowledge to properly assess the quality and content of codes presented by applicants.

The White Paper states that all design codes will require input from the local community. Fostering interest in a design code rather than a solid proposal for a site may be challenging. Therefore, it is essential that design codes do not preclude the opportunity for local people to comment on designs later in the planning process.

There must also be a democratic process by which a representative panel of local people are selected to partake in the preparation of codes. This panel must be managed and regularly updated to ensure that a true cross section of the borough is involved in the process.

Local people's expectations over their input to codes must be accurately set out within the engagement process for design codes. One of the primary concerns of the local community in our borough is the scale of new development. The Council has very few sites and is required to deliver a large number of homes. It is therefore important that a design code is framed in such a way that recognises the numbers of new homes than must be delivered in the Borough. Furthermore, it is important that local representatives are well briefed and guided through the coding process. Design is a specialist skill set and it is important that local people understand the opportunities and constraints of a given site and the implications of any choices they make. Skilled design facilitation will be necessary to make this process work.

The focus of the design guides appears to be on new development. We would urge the Government to allow local authorities to supplement these with local specific policies to guide smaller extensions, mansards etc. This is particularly pertinent to conservation areas, of which we have a large number. Such local issues cannot be adequately covered in a generic national policy document.

We are concerned that the setting of wholly unrealistic housing targets (see out response to Pillar 1) will jeopardise a council's ability to build beautiful. The tilted balance will make it increasingly difficult to resist proposals of a scale and nature which do not reflect the local townscape. This is likely to be the case both within, and outside, conservation areas, where "planning by appeal" may become the norm, as developers seek to maximise density at the expense of good design.

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 sure. Please provide supporting statement.]

Yes. A new national body to support the design coding and better places would be useful. However, this should not come at the expense of having experienced design staff in-house. There is also a question as to who would comprise this body – would they be heritage experts, or would they be from the development industry. We agree that the process needs to be led by an experienced designer and a Chief Officer for Design and Placemaking or similarly titled senior role is supported.

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. Design quality must be considered as an integral part of housing delivery. However, more detail must be developed around this issue. Good design covers all the facets of good growth, not just around beauty. Wider design issues such as strong and inclusive communities, making the best use of land, active and healthy lifestyles, delivering the right kind of homes, infrastructure and employment possibilities and increasing efficiency and resilience all touch on what good design might look like. A national approach to fire safety and its importance in terms of evolving design should also not be overlooked. We are committed to ensuring that fire safety is addressed at an early stage coordinating the work of the Building Control and Planning regimes. This should be a national requirement.

**20. Do you agree with our proposals for implementing a fast-track for beauty?
[Yes / No / Not sure. Please provide supporting statement.]**

No. Local design guides and codes should play an important part in shaping new development and this should be reflected in the NPPF. We recognise that localised pattern books can help ensure that new development does reflect the architectural nature of a local area. However, the nature of fast-tracking has the potential to undermine the consideration of good design, which requires consideration and cannot be considered in a blanket manner. Architectural quality can often be determined through the details and the use of materials. There is a real risk that a fast track process would diminish the scrutiny of this area and lead to a poorer building as a result.

In *growth areas*, we note the intention to make legislative changes requiring masterplans and site specific codes as a condition of the permission in principle granted through the Local Plan.

Regardless of whether local authorities or developers are responsible for preparing design codes and masterplans for growth areas it is essential that adequate time is given to prepare these documents. Therefore, it is not clear that the process as outlined really will be a fast track process.

There is some scope to produce standard advice on small scale extensions and alterations – especially in areas with a very consistent character or with certain building typologies. There is also some scope to produce more area specific planning guidelines that sets out broad parameters that new development could achieve on an area by area basis. This could include elements such as building heights and identify locations for tall buildings.

The idea of widening permitted development to permit popular and replicable forms of development faster will be difficult to implement in our borough. We do not support the idea of allowing the wholesale redevelopment of housing sites under permitted development so long as standard models of housing are employed. Most residential development in the Borough will be on infill sites. They are likely to be very constrained and have very difficult relationships with their neighbours and adjacent heritage assets. They are also likely to come forward at high density and may have a mix of uses. It is unlikely that standard development models could be developed that could respond to this complexity.

Secondly the architectural style in the Borough is very varied. The ‘standard’ models would therefore need to be ‘tailored’ almost every time they are used. This would be resource intensive. It would be difficult to plan as a number of developments come from windfall sites as explained under responses to Pillar 1.

Lastly, a standardised approach to development risks limiting architectural inventiveness and preclude alternative, site specific designs that may offer better solutions for sites. Whilst the use of pattern books was undoubtedly part of our borough’s past, we should not forget that many of our most famous buildings push boundaries and do not conform to them.

There also needs to be flexibility for change. Large developments evolve and change incrementally through the application stage and prior to being constructed. A system that rigidly binds a development to the original idea could stifle the best development going up on site.

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]

Only one box can be selected.

More genuinely affordable housing (what we have termed in this Council as community housing), better infrastructure and design

Pillar 3: Planning for infrastructure and connected places

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.]

Yes. The Council supports the consolidated Infrastructure Levy as this will further simplify the approach to seeking developer contributions. However as explained in our response to Question 22(b) a standard national rate is not considered appropriate as it will not reflect local development values.

We note that if the Infrastructure Levy (IL) is introduced, payment will be due upon occupation. This will present uncertainty over when IL payments will be received by councils as it would be very hard to know when a developer will build out and the scheme will be occupied. The current approach is that Community Infrastructure Levy (CIL) is paid upon commencement and for s106 this Council requires a majority of the payments prior to implementation. Under the new process the monies will be received much later in the process. If the final IL amount is then also to be based on the value of development, the amounts expected will also be uncertain. The new process will have less certainty and more risks than the present system.

These aspects of how Infrastructure Levy may operate may hinder the Council's ability to deliver infrastructure in a timely manner needed to support development.

In addition, s106 agreements secure essential non-financial obligations. For example, they can not only secure the provision of on-site community homes (genuinely affordable) but also that these remain as community homes in perpetuity, or seek to provide opportunities suitable for unemployed residents, creating apprenticeships, sourcing supplies locally or more sustainably. Furthermore, public realm improvements, transport improvements, renewable energy mitigation, carbon offsetting, school and community engagement, work experience, upskilling the workforce, and mentoring are all outcomes that can be agreed to within a s106 agreement.

There seems to be an assumption that the main purpose is financial gain, and this neglects the importance of securing non-financial mitigation measures as outlined above or other commitments which would make development acceptable.

In respect of economic development objectives, the inclusion of these commitments in s106 agreements are very valuable to the local economy as sustainable local employment and local buying provides ongoing investment locally. A strong focus on spending locally and supporting the local economy should be incorporated in IL as well as the need to support the facilitation and delivery of these locally.

Guidance on how these wider issues / mitigation measures that are to be secured in the absence of s106 legal agreements should explicitly feature in the changes that are proposed and would be welcomed.

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

Area specific or locally.

This borough's CIL rates are some of the highest rates in the country reflecting our high land values. For example the CIL Charges (www.rbkc.gov.uk/CIL) for residential development range from £110 at the low to £750 per sqm at the top end reflecting the distinct local variances in land values and development viability across the Borough. As there is such a variation within our 4.5 sq mile boundary, there will be huge variances at national level, in this context a national rate is likely to be based on average assumptions and would have to be set at the lowest possible level to ensure that low value areas across the country are able to seek and benefit from the Infrastructure Levy. Whilst there may be merit in a national single rate in terms of simplicity and clarity, this will not reflect local development values and therefore reduce the amount of developer contributions to deliver infrastructure for high value areas. This will particularly be the case for our borough. The Infrastructure Levy amount should be reflective of the local area needs and cost of infrastructure. The Council therefore supports setting locally specific rates in line with a national methodology or baseline as this would enable us to deliver the infrastructure, we require 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.]

More Value or the same value. The Council supports more value being captured to support greater investment in infrastructure. Since January 2019, s106 has helped secure about £12.7 mn or a wide range of infrastructure including community housing. Since the introduction of Community Infrastructure Levy in 2015, the Council has received about £15.5 mn through CIL of which about £2.9 mn is apportioned as neighbourhood CIL. It unclear if the Infrastructure Levy will continue to allow these levels of contributions to continue for investment in the infrastructure and the local community.

If s106 is to be abolished the consolidated Infrastructure Levy will need to be greater to offset loss of s106 and to secure improved benefits for local community and link to inclusive growth. The Infrastructure Levy will need to be capable of capturing value of both financial and non-financial obligations that bring resident, community and business benefits.

As explained at question 22(b), a locally specific rate would best reflect high land values in this borough and capture more value than a single national rate and would likely allow these levels of contributions to continue.

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.]

Yes. We support the ability to borrow against Infrastructure Levy but, as explained in response to question 22(a), the final value of development and when occupation occurs will provide uncertainty. The risk is transferred to the Council as Infrastructure Levy will not be paid until development is completed and the final value is known. So, there will be a need to mitigate the risk with both timing and value of final payment. These risks would not incentivise or may limit the Council's ability to borrow against the Infrastructure Levy to forward fund infrastructure. Lenders may view this as high risk.

It is also unclear how payment will be enforced. At present they can be enforced as units cannot be occupied/sold otherwise.

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.]

It is unclear if the proposal to capture changes of use through permitted development rights as explained at paragraph 4.19 of the White Paper (web accessible version) signifies an intent to remove the existing floorspace discount if it is deemed to be "in-use". If this is indeed the intention, the Infrastructure Levy would capture more developer contributions from a wider range of development and the Council would support this.

We would also welcome further clarity on whether the proposed change only relates to permitted development where prior approval is required. More clarity is sought on how planning contributions would be captured where prior approval is not required.

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. The Council agrees with the aim but does not think that the proposals will allow for this. The proposals do not seem to incentivise on-site delivery of community housing. On-site community housing delivery as part of development that comes forward is critical for additional provision in a constrained and built up borough like Kensington and Chelsea and the need for mixed and balanced communities.

The Council notes that on-site provision could be made mandatory where an authority has a requirement, capability and wishes to do so. This demonstrates that we do need local Development Management policies as clearly this cannot be done nationally. How this could be secured, in the absence of s106 agreements and against the backdrop of scaled back local plan policies, needs to be detailed fully to understand how it will work.

The Council is mindful of the consultation on other changes to the current planning system. Whilst proposed for the short term (18 months) increasing the community housing threshold to 40 or 50 homes. This will reduce securing community housing on the large majority of the sites in the Borough. We suggest that the triggers should be, as suggested for Infrastructure Levy, be based on development value. The [Office for](#)

[National Statistics \(ONS\)](#) reports that the median price paid for homes to the end of September 2019 was £4.6m in the Borough, therefore the value of 40 or 50 homes will be phenomenal in our borough. Not requiring any community housing from such sites will be a missed opportunity to address the acute housing needs in the Borough. The reduction of the provision of community housing will alienate communities which expect a Council to seek to address the housing needs of those less able to access the conventional housing market.

For our Borough increasing the provision of community housing is extremely important. The Council would have welcomed the publication of the long awaited Social Housing White Paper alongside or ahead of this consultation. It seems an anomaly that the Planning White Paper with such fundamental reforms has been published but the Social Housing White Paper has been paused to give it the prominence that it deserves due to the current pandemic.

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.]

The Council supports delivery of community housing on site as this would have the most positive impact on provision within this borough. However, this should not be restricted to a proportion set nationally but should reflect the local need for community housing. Provisions will need to be in place to ensure that the homes offered in this way by the developer maintain the same quality and space standards of those to be retained by the developer for market housing.

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. It is understood that under the in-kind delivery proposal, homes will be sold to local authorities or registered providers at a discount and the difference in value between the price sold to the provider and the market value of the unit would be offset against the Infrastructure Levy liability.

These proposals are designed to reduce the risks to Councils as the Levy will be payable on occupation. This Council supports the proposal that if the value of in-kind units is greater than the final levy liability, then the developer has no right to reclaim overpayments.

The proposal also suggests that if this value (the difference) is not sufficient to cover the levy liability then a proportion of community housing units could be allowed to revert back to market units and sold by the developer. This would be allowed in the event of "market fall". As the Government is aiming to make the system more certain and transparent, we are concerned that flipping community units back to market housing may not seem to provide certainty on community housing delivery. Furthermore, it would seem that these units will have to remain unoccupied until the final evaluation of the whole scheme has taken place with the potential of flipping back to market housing. This would run counter to good place-making and lead to a lot of uncertainty.

These proposals would not only significantly defer the delivery of this infrastructure but could also result in no community infrastructure if the terms were renegotiated. To wait until completion may mean no primary school or health centre when needed. This

delay will further alienate those communities which expect timely delivery of community homes.

Related to the Council's response to question 25 below, if a proportion of Infrastructure Levy is not ringfenced for community housing, the offset could diminish the amount the Infrastructure Levy available for towards delivery of other infrastructure.

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.]

With the loss of s106 agreement there will need to be a mechanism to ensure that the high standards and quality of community housing are delivered. Other than through local policies it is unclear how this could be achieved at a national level, perhaps through national affordable housing standards which would be welcomed. It is important that if the notion of first homes is brought forward to play a more prominent role that these are controlled through an appropriate s106 agreement to remain for quality community housing purposes.

25. Should local authorities have fewer restrictions over how they spend the Infrastructure Levy? [Yes / No / Not sure. Please provide supporting statement.]

Yes. The flexibility to use the Infrastructure Levy for wider purposes including Council services or reducing Council tax is welcomed, however this may result in less money being available to deliver infrastructure. There may be a positive role for some additional social value conditions regarding the use of the Infrastructure Levy which could help guide local authority spend decisions.

25(a). If yes, should an affordable housing 'ring-fence' be developed? [Yes / No / Not sure. Please provide supporting statement.]

Yes. The Council would support part of the Infrastructure Levy being specifically ring fenced for community housing.

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?

The proposals under Pillar 1 indicate a scaling back of community engagement which will impact on disadvantaged residents who do not have the means or capabilities to access planning information digitally.

The proposals could limit the amount of community housing delivered and as a result impact on an number of those who fall within one or more of the protected characteristics and rely on this form of housing. Evidence from our housing register suggests that social rented housing is of particular benefit to those with disabilities, BME groups and females. These groups will be affected by the potential reduction of community housing that could be delivered on site.

The loss of s106 to secure mitigating measures as highlighted in our response to question 22 such as those relating to employment and skills may see a reduced ability to provide new apprenticeships and other employment opportunities for vulnerable groups.