

## **Written evidence submitted by North Southampton Community Forum [FPS 018]**

The North Southampton Community Forum (NSCF) is made up of some 20 local Residents Associations and Community Groups with members mainly from the northern Wards of the City, who in turn represent approx. 75,000 residents. Members are advised of Government Consultation Papers relevant to residents in order to elicit their responses. A draft Response including all responses received is circulated for review before offering this NSCF Response to Government. This practice justifies our claim to represent the views of our members. The Association would in passing refer to the evidence submitted by its representative body, the National Organisation of Residents Associations (NORA) to which this paper represents a local supplement.

In summary, there are some proposals in the recent White Paper that NSCF can support – the strengthening of enforcement powers and sanctions (provided local authorities also have more resources), greater digitalisation (with safeguards), and the enhanced emphasis on design. But the Association does not think that – taken as a whole – the White Paper proposals will achieve the stated outcomes. In particular, the Association considers that the diminution of the role of the local community envisaged in the proposals will not only weaken the planning system but is also in clear breach of the Localism Act which provides for further decentralisation to local councils, communities and individuals. Finally, there is the issue of whether the Government should be proceeding with such wide-ranging changes at a time of national emergency.

The remainder of this document sets out the Association's responses to the Committee's Questions (1-5).

### **Question 1**

NSCF considers that the Government's proposals will weaken the planning system (and local democracy) by making it harder for local communities, individuals and organisations to influence local planning decisions and developments. At the same time, there are changes that could be made that would make the system fairer and less open to exploitation by unscrupulous developers and ridicule and disrepute amongst third parties. However to be fully effective these would need to be accompanied by greater resources for the implementation of decisions (see Annex).

### **Question 2**

The main reason for the shortage of, especially, homes for affordable rent, is the reliance on the private sector for the supply. This is demand that can only be met by the public sector. The blockage is certainly not the planning system. NSCF is aware of an analysis by the Local Government Association that 90% of planning applications are approved, and that there are more than a million homes with planning permission still to be built (a stunning case of a market failing to work). It is clear to NSCF – if not to the Government – that the planning system is not a significant barrier to new homes (as opposed, for example, to the failure of developers to fulfil their side of the bargain).

That said, there should be ways in which land hoarding is discouraged and windfall gains penalised. Serious consideration should be given to the following measures: a ring-fenced tax on excessive planning gains with the proceeds fed into the local planning system; a capping of the land value at the time when permission is given; a time limit of, say, 5 years after which the permission would automatically lapse.

### **Question 3**

Generally, the design of new developments in our area – for example, new blocks of student housing – is boring and unimaginative, if not worse (photos can be supplied). NSCF would like to see the Government and the local authority insisting on better designs that reflect, even if they do not imitate, existing local styles. At the same time, NSCF is sceptical of the extent to which ‘beauty’ can be created or protected through design guides or codes. There should be more training for planning officers in design and NSCF supports the Government’s proposal for a local Chief Design Officer to assess and review the designs of new or remodelled buildings.

### **Question 4**

NSCF does not favour a single national method for assessing housing need. There are too many variables to be taken into account for any formula to be able to properly and fairly assess local housing need. More generally, the Association is surprised at the Government’s continuing espousal of algorithms in view of its recent unhappy experience with such devices.

### **Question 5**

There is clearly scope for improving access to the planning process, especially for people who do not belong to a residents association or local community group (where they exist). One way of tackling this would be for such residents to sign up to a local authority-sponsored ‘alert’ service for regular notifications of relevant local applications. In addition, the Planning Portal should be rejigged to make it more user-friendly, for example, so that documentation can be viewed on-screen with the option of downloading and saving. But whatever

changes are made, it needs to be borne in mind that a significant proportion of the population does not use the net (so hard copies of documents should always be available on demand).

### **Questions 6-8**

NSCF has no evidence to offer on these questions but would support the NORA evidence.

### **Annex: Implementation of the Planning System**

NSCF has had considerable experience of the working of the planning system over many years. It has had particular experience of the (very patchy) implementation of planning decisions. Put very simply. There does not seem to be any effective and efficient way of making planning decisions 'stick'. This has two aspects: Appeals and Enforcement. NSCF would like to see the following measures given careful consideration.

#### **Appeals**

This is where many inequities, abuses and delays occur.

There is a fundamental unfairness in that whilst an applicant may appeal against a planning decision, those who have commented and contributed to the consideration of the application, such as local community groups, do not.

In addition, it is possible for an applicant to appeal the same case twice: first the refusal, and then when this is dismissed, the resulting enforcement action.

NSCF understands that when the Government introduced Section 70 *Decline to determine* powers for local authorities to prevent continuing repeat applications and/or following prior enforcement proceedings for the same property, it was intended to include a similar procedure to prevent the current 'two bites at the cherry' for the Appeals process. It is not clear why this was not done. It would still be highly desirable (a legal opinion for NORA on this issue is available and has already been submitted to the MHCLG).

A further improvement would be to reduce the period for lodging an appeal following a Refusal Notice for retrospective works from 12 weeks (currently for householder developments) to 4 weeks (which would align with the 28-day timescale for compliance with an Enforcement Notice). This would save up to 8 weeks without disadvantaging anyone.

Another suggestion would be to remove the right to appeal ground (a) (i.e., that permission should be granted) when appealing an Enforcement Notice where the Refusal Notice for the same development has already been dismissed on appeal. This would remove the right to appeal the planning merits of a development for a second time, again reducing the overall timescales. If adopted, this would not remove the right of applicants to appeal on other

grounds, such as the timescales for compliance being too onerous or the Notice being incorrectly served. But it would remove the need for a planning judgement by the Planning Inspectorate (PINS) on the merits of the development (a case study is available).

A more radical measure would be to remove the right to appeal ground (a) at the enforcement stage when a development is retrospective and there is already an appeal in process (even if the appeal hasn't been decided). This goes slightly further than S70 and would not be open to Judicial Review in the same way as a Local Authority's use of S70 is.

Finally, as most refusals are appealed automatically, many wholly without merit, there should be a minimum fee of, say, £1,000, which could be used to support the appeals process. Such an amount would be appropriate and would help to discourage frivolous or vexatious appeals, as well as helping to fund the service.

### **Enforcement**

There are various ways in which enforcement could be speeded up and made more effective.

One obvious means would be to levy an automatic charge equal to the enhanced value created as a result of the (unauthorised) development. This in itself would be a powerful incentive to keep within the law. But there also needs to be a more effective and immediate Stop mechanism to discourage unauthorised works and retrospective planning applications (of which we seem to have more than our fair share in Southampton).

However, to repeat, none of these measures will be effective unless local planning authorities have the resources, as well as the *will*, to make the planning system work and planning decisions stick.

### **Appendix: NSCF White Paper Response**

Members have three main issues about the White Paper, which proposes yet another change in the planning regime, yet excludes any proposals for an urgently needed overhaul of the **Appeals process**, which currently allows an Appellant to appeal twice for the same case, i.e. first the Refusal and then the Enforcement. This is dealt with in more detail under Sec 24.

It is considered that the intention of some of the proposals introduce a fundamental change in the planning legislation, which may not be appropriate.

NSCF's perception of the proposed changes is that it is the intention to expedite the granting of more applications for the building of new housing and there is an intention that partiality is weighted in favour of developers to the detriment of local communities. This would, in effect, centralise the planning process.

NSCF also is of the opinion that the proposed changes will produce some 300,000 new builds is based on erroneous data and this is borne out by figures the Office of National Statistics have published. Examination of these since 1949 show the rise and fall in the number of new builds is determined by the state of the national economy and there have been only seven years when the number of new builds has exceeded 200,000.

There is no correlation between the number built annually and the various relaxations of the planning regulations of the past decade. These have not, in NSCF's submission, had any discernible effect on the number of new builds. **Permitted Development Rights** have allowed, and will continue to do so, inappropriate building and conversion of unsuitable accommodation and extensions which will lower standards and change the character of many local communities. There are now many recent examples of inadequate design and space standards creating in effect, the slums of tomorrow.

NSCF is of the opinion the proposed changes within this consultation paper would, if implemented, result in a spate of applications below the 40-50 site affordable housing trigger. While this may, in the short-term, produce an increase in the supply of new houses, this may be at the expense of the number of affordable houses. It is, therefore, to be of benefit to whomever owns the land, be it an individual or a developer. The potential home buyer will be at a considerable disadvantage in this.

NSCF identifies this reveals a defect in the Government's interpretation of the economics and the relationship between house building and the value of land. In effect, this demonstrates the processes of calculation are, at best, erroneous and at worst, completely misleading.

While it is highly desirable to have a sufficiency in the number of homes available for the first-time buyer, there is a divergence between the price of affordable homes and the market value of the housing that is too expensive for people of limited means.

In considering Permission in Principle, bigger sites pose greater complications and developers of these are more likely to elect to apply for outline planning permissions. Permission in Principle will, for all intents and purposes, create a "zonal system".

NSCF considers the implementation of these centralised policies and the imposition of centralised policies and digitalisation, along with the removal of community involvement from key stages in the planning regime is in breach of the Localism Act and undemocratic.

NSCF would cite the words contained in the (then) DCLG “A plain English guide to the Localism Act” published in November 2011:

*“The Localism Act seeks to give effect to the Government's ambitions to decentralise power away from Whitehall and back into the hands of local councils, communities and individuals to act on local priorities.”*

In this, it would appear centralised policies are in conflict with the above Act. It is therefore queried whether the Act would be substantially revised or new legislation enacted.

It is NSCF’s considered view that Local Planning Authorities should encourage and promote the involvement of communities especially where there are established Residents Associations and also be more cognisant of the observations submitted to them by individual residents when deciding the outcome of a planning application.

NSCF would therefore oppose the withdrawal of the proposed planning changes as it considers they are unfit for purpose.

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

***Response:** It is difficult to understand what data might be extracted from this question. However, Complicated, specialised, abstruse are suggested.*

1.16 - **Streamlining the planning process:** two areas where this is most urgently needed are the **Appeals** process and **Enforcement**. One can not talk about one without the other, since often it is following Appeals that gives rise to Enforcement

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

***Response:** Yes. NSCF and its members, who are Residents Associations and their resident members are very involved in caring for their communities and are an integral and important part of the decision-making process.*

**Question 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?

**Response:** *Access to information on planning applications should be simple. Local Authorities' Planning websites currently allow searches by weekly or monthly lists of new applications which can be further filtered by Wards. Community bodies, such as Residents Associations or Amenity Societies, carry out regular searches and inform their members accordingly by emails or by posting the information on their websites or by email, although some do not have these. For the individual resident, who may not be a member of their Residents Association and who do not carry out their own personal searches, are at a disadvantage, often only learning about planning applications in their immediate locality at the last minute or after a decision has been made. It is suggested that Local Authorities introduce an "alert" scheme, which registered subscribers would receive notifications on their devices of the latest weekly or monthly lists. These should be by either text or email, which is universal and receivable on all devices. Additionally, a notice displaying the details of the planning application should be posted on or near the subject property where the development is deemed to be of major importance or having a major impact on the area.*

*All documentation contained in a planning application should be in the same format. The universally recognised format is the "portable document format" which is easily shared and printed. Today almost everyone has a version of Adobe Reader or other program on their computer or other device that can read these files. However, for instance, correspondence is often in different messaging programs which are sometimes indecipherable unless that particular program is installed. Therefore, all documents should be converted to PDF. Social media such as Facebook, Twitter, Instagram, Snapchat, and YouTube are not subscribed to by everyone and therefore they are unsuitable.*

*The Planning Portal:* *This is not user friendly and should be revamped. Members have complained that navigation to planning applications in their area is difficult and that all documentation is required to be downloaded, saved and opened in the appropriate programme. This is time wasting and inconvenient. This is especially applicable to those with devices that have limited storage. Documentation should be able to be viewed onscreen, with the option of downloading and saving. The present system presents problems where there are numerous documents, sometimes several hundred in the case of proposed major developments.*

*It should also be recognised that the use of internet accessible devices is not yet universal.*

*We refer, also, to our observations in the answer to Question 13(b).*

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

**Response:** Preventing the proliferation of more HMOs and STLs, introducing minimum space standards for new development, creation of more family and first time homes.

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

**Response:** No. The proposals for three kinds of land are poorly defined and would introduce differences of interpretation at the expense of the environment. It is noted that while Local Plans will be retained, the consequence will be a significant reduction in latitude, the designation being decided in advance. This would result in consent being granted for some development categories and thus the challenging of the Local Plan being made more difficult. There is no real evidence that the present planning system inhibits house building and that “zoning” will improve and curtail the current system.

Evidence in the public domain from the Local Government Association shows that 90% of planning applications are approved, while there are more than one million homes with planning permission that are still to be built. The LGA analysis found 2,564,600 units had been given planning permission since 2009-10 and that 1,530,680 had been constructed and the number of granted planning permissions for new homes in England almost doubled between 2012-13 and 208-19 from 198,800 to 3161,800.

This, it is argued, means that Local Authorities were not the block to the Government’s target of creating 300,000 new homes per year. Evidence of this exists at local Borough Council level nationally. The planning system, as it exists presently, gives developers more than enough “tools” to do the job but they are not fulfilling their part of the deal by delivering on permissions

**Question 6.** Do you agree with our proposals for streamlining the development management content of Local Plans, and setting out general development management policies nationally?

**Response:** There is a great diversity of environments and therefore, it would be inadvisable and unworkable to impose a standard, “one size fits all” across the board.

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

**Question 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?

**Response:** No, local policy tests need to be local to match the different environments. These proposals would simplify the often-protracted process which can, and does lead to an adopted Local Plan being outdated before it can be implemented resulting in the whole process having to be reopened and thus

*delayed unnecessarily. It is not obvious that a consolidated test of sustainable development will be possible. There are implications for compliance with both UK and international law. However, it would be helpful to simplify the evidence base.*

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

*Response: A formal duty to cooperate needs to be implemented.*

**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.**

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

*Response: No. With such a variety of environments available, including land, the risk of building on floodplains, the consideration of local features, the nature of community and local facilities to be taken into consideration, there is not any formula or no equivalence or algorithm that would produce a method that, NSCF feels, will be fair and reasonable. While planners may propose the development requirements, in reality, they remain the decision of the developer.*

**Question 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?

*Response: No. There is, so far as NSCF is aware, no evidence to relate affordability to the number of new-builds needed. The factors being used to assess affordability are flawed, since using average income relates to one person and not the household, and secondly commuting disconnects income with site.*

**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.**

**Question 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?

**Response:** *No. There is no justifiable reason to have one type of service for one area in a district and another for other parts. All should receive the same service.*

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

**Response:** *No. The definition of Renewal Areas is too vague to justify a different approach. Protected Areas should be resolutely protected without exception, otherwise how can they be labelled 'Protected'?*

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

**Response:** *No. To be subject to outside control when the proposals are to affect the local community, it is undemocratic and a breach of the Localism Act, as has been stated above in the Foreword, to exclude the involvement of the community.*

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

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

**Response:** *No, not at the expense of the community's interest. Developers can, and do, make last minute alterations in the hope of avoiding local scrutiny, so decisions must allow for an appropriate delay when this occurs. The value of digital technology in the planning process has not been evaluated. The application of digitalisation to beauty and local architecture has not been implemented and may not be possible.*

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

**Question 11.** Do you agree with our proposals for accessible, web-based Local Plans?

**Response:** *Yes, but not only should the Local Plans be easily accessible but also should include an easily read summary which is comprehensible and clear to the general public, who are, not, in the main, professionals.*

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

**Question 12.** Do you agree with our proposals for a 30-month statutory timescale for the production of Local Plans?

**Response:** *No. Successive reductions in funding of planning departments has led to a dearth of experienced planners, and to expect the current staff to re-write their Local Plans in the present climate with the present staff is unrealistic. Many Local Plans have been exhaustingly examined, modified but finally approved after years of work, and an excess of a period of 530 months will be destructive. It is conceivable that Local Authority planners will most likely leave the public sector to seek private employment elsewhere.*

**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**

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

**Response:** *Yes, but they must be given cogent power and not be side-lined. It is crucial that where the local community has produced a Local Plan that it is accorded full recognition and implementation. Local Plans can take up to seven years from inception to adoption and if abolished in favour of simplified housing plans and “design codes” which would be required to be in place with 30 months, and which meets the provisos set out, they would gain approval automatically.*

**Question 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?

**Response:** *The objectives and purpose of a Neighbourhood Plan should indicate the wishes of the local community by public consultation. Certainly, the preferences for compatible and acceptable designs of new developments that reflect the character, environment and historic architecture should be those predominant in the area. In the matter of design, this should also embody a wider assessment of the environment, including the protection of open and green spaces, and the existing infrastructure. NSCF is cognisant that the term “digital tools” includes websites or online resources that can make the process easier to understand, accessible especially by the general public who reside and work in the area. A survey published by the Office for National Statistics (ONS) in 2019 shows 5.3m Britons have either never gone online or not used the internet. It is important that all the population have access to digital information and while computers are usually available at public libraries and Local Authorities’ offices, to view planning applications, and provide assistance. these are not sometimes easily accessible, especially to those who need to travel. Therefore, Local Authorities should provide hard copies of documents, on request.*

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

**Question 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?

**Response:** *Yes. The rate at which developers 'build out' is decided by their business plans and available finances. They will only build if they can sell their dwellings. Penalties on planners for the 'slow building out' are illogical since they don't build the dwellings. Penalties on developers will potentially impede the progress of the developments and may even result in the abandonment of the development. The rate of completing and selling property is not a matter of planning but related to the economic situation of the time, the availability of mortgages or loans and the desirability of the dwellings.*

## **PILLAR 2: PLANNING FOR BEAUTIFUL AND SUSTAINABLE PLACES GOOD DESIGN**

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

**Response:** *In too many instances the same designs of new builds are used, especially by large developers, so that traditional or local design and features are not considered, thus making new developments invariably uniform and unimaginative. Good design reflecting, but not necessarily, copying local existing styles is unfortunately infrequent.*

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

**Response:**

Less reliance on cars: *Improvements in public transport are long overdue. Regrettably, most public transport routes, especially 'buses, are operated by private companies and profitability rather than service is the criterion for their continuance regardless.*

Open spaces: *The lack of provision of open spaces, especially in town and city centres has a predisposition to the "canyonisation" and overbearing tall buildings.*

Energy efficiency: *should be paramount in new buildings, of whatever type.*

Trees: *Seven or eight trees' worth produce 740kg of oxygen per year. They combat pollution and they contribute pleasant surroundings in an urban environment.*

*Inappropriate developments are not transient but permanent. This is detrimental and harmful to the character of the area.*

**Proposal 11: To make design expectations more visual and predictable, we will expect design guidance and codes to be prepared locally with**

**community involvement, and ensure that codes are more binding on decisions about development.**

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

***Response:** Yes, provided they are relevant to their locality and planners stipulate their implementation. Attempts to digitise beauty is unworkable and, to quote, “Beauty is in the eye of the beholder” and cannot be quantified. Guides may help but codes are dehumanising. The Government’s Report in January 2020 entitled “Living with Beauty” states “Refuse Ugliness. Ugly buildings present a social cost that everyone is forced to bear. They destroy the sense of place, undermine the spirit of community, and ensure that we are not at home in our world. Ugliness means buildings that are unadaptable, unhealthy and unsightly and which violate the context in which they are placed. Preventing ugliness should be a primary purpose of the planning system.”*

**Question 18.** Do you agree that we should establish a new body to support design coding and building better places, and that each authority should have a chief officer for design and place-making?

***Response:** NSCF would support local proposals but consider that centralising design is adverse, since it imposes a central view when local views should be paramount. In taking into account proposed designs in planning applications for new builds, Planning Officers should be trained in design and be able to take into their deliberation as to whether the proposed designs are attuned to and harmonious with the existing surroundings. Therefore, NSCF is greatly in favour that Local Planning Authorities should be required to appoint a locally led Chief Officer to administer and approve the design evaluations. It is desirable, therefore, that there should be the establishment of a new body which would issue the appropriate guidance on the above.*

**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.**

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

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

***Response:** Yes. We have referred to the Homes England Strategic Plan 2018 to 2023 in which it is stated that this body “will work with construction, design,*

*development, housing associations, Local Government and other partners”. It remains to be seen how this might be affected if Homes England can practically “intervene in the right places at the right time to change the market”. It is vital that local views should be paramount, so residents should be included, after all, they have to live with the proposals.*

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

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

***Response:** Yes, provided the design complied with policy in Neighbourhood Plans, Local Design Statement and complied with appropriate local density.*

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

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

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

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

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

***Response:** The priorities depend on the needs and aspirations of local communities. More affordable housing, more or better infrastructure (such as transport, schools, health provision), design of new buildings, more shops and/or employment space, green spaces: - These are all sought-after, but the current need is for public sector rented dwellings. The Government’s obsession with encouraging houses for sale ignores the over-riding demand and need for social housing. Nearly four million households live in parent’s or friend’s dwellings when they should be independent. It is this lack of public sector building of dwellings for rent that is the reason for the ‘broken housing market’.*

**Proposal 19: The Community Infrastructure Levy should be reformed to be charged as a fixed proportion of the development value above a**

**threshold, with a mandatory nationally-set rate or rates and the current system of planning obligations abolished.**

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

*Response: No. The current system ensures funding for local services and determined according to local needs. Changing it is unjustified.*

**Question 22(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. NSCF considers that the Infrastructure Levy Rates are best assessed at local level relevant to need and demand for ancillary services.*

**Question 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?

*Response: No. Refer to Question 22(a)*

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

*Response: Yes. Borrowing would allow Local Authorities to tailor their requirements as they see fit.*

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

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

*Response: Yes. Any development merits this contribution as long as it is for the benefit of the community.*

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

**Question 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?

*Response: The failure to provide adequate public sector rented dwellings is at the heart of the housing problem. Attempting to solve it by discounting dwellings for sale does not solve this serious problem. Using levies places the burden unfairly on the local community whereas the support for public sector rented properties should come from general taxation.*

**Question 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?

**Response:** *The latter – a “right to purchase”*

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

**Response:** *No. This might be deemed to be an over-complication. Currently the on-site S106 affordable housing is specified and delivered for an agreed transfer price to a local authority. This is for value (no over or under payment).*

**Question 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. The Infrastructure Levy affordable housing would need to be specified and delivered for the agreed transfer price as currently takes place for S106 affordable housing. Notwithstanding, the failure to provide adequate public sector rented dwellings is at the heart of the housing problem. Trying to solve it by discounting dwellings for sale does not solve this serious problem. Using levies places the burden unfairly on the local community whereas the support for public sector rented properties should come from general taxation.*

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

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

**Response:** *No. Any Levy should remain used for funding the support and supply to meet the demand and need related to the development and undermines the reason for imposing the Levy on development, and if used otherwise it becomes just another form of taxation. The Infrastructure Levy should be ring fenced for affordable housing and infrastructure to mitigate the harm/externalities caused by the development.*

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

**Response:** *If the new planning system should be implemented, it should be principally funded by the beneficiaries of planning gain – landowners and developers – rather than the national or local taxpayer.*

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

**Comment:** 5.28 – 5.30 - In submitting our recommendations for improving the Enforcement procedure we believe this has to commence with improvements to the...

**Appeals** process first, as this is where many of the needless delays and abuse initiate. For example at present it is possible to appeal the same case twice: first the Planning Refusal and then when this is Dismissed, any resulting Enforcement action. When the Govt introduced Section 70 *Decline to determine* powers for LAs to prevent ongoing repeat applications and/or following prior Enforcement proceedings for the same property, it had been intended to include a similar procedure to prevent the current “two bites of the cherry” abuse for the Appeals process. It is not clear why this was not introduced at the time when Sir Bob Neil was the SOS or indeed earlier at the end of the last Labour Govt when John Denham was SOS and had assured us this would no longer be allowed.

NORA has previously submitted to the MHCLG a legal argument prepared by Kings Chambers on the matter.

Additionally a further simplification would be to reduce the period for lodging a planning appeal following a Refusal Notice for retrospective works (from 12 weeks, currently for householder developments, to 4 weeks thereby aligning with the 28 day timescales for compliance with an Enforcement Notice). This simple change would reduce the overall process by up to 8 weeks without prejudicing either party. The second suggestion is to remove the right to appeal ground (a) (ie. that permission should be granted) when appealing an Enforcement Notice where the Refusal Notice for the same development has already been dismissed at appeal. This would remove the right to appeal the planning merits of a development for a second time thereby reducing the overall timescales. This suggestion wouldn't remove the right for applicants to appeal other grounds, such as the timescales for compliance being too onerous or that the Notice itself was incorrectly served, but removes the need for a planning judgement by Planning Inspectorate (PINS) on the merits of the development. (a case study is available)

A more radical suggestion would be to remove the right to appeal ground (a) at the enforcement stage when a development is retrospective and there is already an appeal in the process (even if the appeal hasn't been decided). This goes

slightly further than s.70 and wouldn't be open to Judicial Review in the same way that the Council's use of s.70 is.

Further as most refusals are appealed automatically, many without merit, there should be a minimum fee to discourage frivolous or vexatious cases which would also help fund the Appeals service; a figure of £1,000 would not seem excessive.

**Enforcement** – NORA has also previously submitted proposals to expedite this process, the most straightforward of which in relation to unauthorised development would be to levy an automatic charge of the increased value created as a result of said development. Thus if it was known any gain would be forfeit there would no point doing it in the first place?

For Enforcement to be effective it must also be timely and the penalties exemplary to discourage abuse of the system.

There needs to be a more effective Stop mechanism to discourage unauthorised works and retrospective planning applications.

The next example may primarily be an Environmental Health issue, it nevertheless impacts on communities in an adverse way. Thus S46 of the Environmental Protection Act 1990 needs amending to reduce the current time of up to 12-16 weeks (Depending on offences caught) and often residents (particularly students) who choose to ignore warnings and notices causing further delays to this process. Making the property owners i.e. Landlords responsible rather than the often transient occupiers might help address this blight.

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

**Response:** *It is understood that the Public Sector Equality Duty is a duty on Public Authorities to consider or think about how their policies or decisions affect people who are protected under the Equality Act 2010. It is further understood that private organisations and individuals are not required to comply with the duty. NSCF is content that there is continuance of this duty as it stands.*

*October 2020*