

Consultation on Proposed reforms to the National Planning Policy Framework and other changes to the planning system

Response on behalf of London Borough of Richmond upon Thames

1) Do you have any views on how statutory National Development Management Policies could be introduced in the most effective manner, should a future decision be made to progress these?

The Council's overarching view is that National Development Management Policies (NDMPs) should not be statutory. As it expressed in its response to the consultation on the Levelling Up and Regeneration Bill, in March 2023, the Council would be concerned that statutory status to NDMPs risks undermining the primacy of the development plan which is a key foundation of the English planning system. Applying statutory status to national decision-making policies would mean that local decision-making policies, which have been informed by a local understanding of ambitions, opportunities and priorities, assessed through an evidence base and tested through meaningful stakeholder engagement, risk being automatically displaced by national policies which reflect a broad brush national average position on issues, are often not supported by a public evidence base and which may have only been subject to one round of national consultation.

In practical terms, it is clearly not reasonable for the NPPF to seek to cover the full breadth of planning issues that exist across the country or to go into fine detail that reflects how even common issues manifest themselves differently in different places. The key benefit of a non-statutory NPPF which sits alongside statutory development plans is that it allows the Government to be clear about its general expectations for how development should be planned for and managed across the country and to provide clarity for what should happen when the plan-led system fails, whilst allowing individual local authorities to apply these national expectations soundly in a local context. There are clear tests within the NPPF that help to ensure that local plans are only found sound when they are consistent with the NPPF which is an effective guard against unjustified inconsistency. Furthermore, the Council agrees with the sentiments included in the consultation document that the NPPF already carries significant weight in the planning system and that the provisions of this new NPPF can be expected to continue to carry significant weight without statutory status.

The Council would contend that there is therefore not a need for the NPPF to become statutory and is concerned that statutory status may generate unintended consequences that mean that the NPPF has to either become significantly longer or more detailed to account for local variations on national issues, or risks poorer quality decision making as a result of locally-responsive policies being displaced.

Were the national decision-making policies to be made statutory, the Council considers that these should be subject to further consultation, regulatory assessment and evidential justification, mirroring the expectations for development plan policies. This would be necessary to ensure that national decision-making policies proposed to be comparable in status to development plan policies were similarly justified against alternatives and effectively constructed.

2) Do you agree with the new format and structure of the draft Framework which comprises separate plan-making policies and national decision-making policies? *Strongly agree, partly agree, neither agree nor disagree, partly disagree, strongly disagree.*

a. Please provide your reasons, particularly if you disagree.

The Council agrees that the NPPF setting clearly different policies for plan-making and decision-making is a sensible structure. When compared to the existing NPPF, the proposed structure provides greater

clarity on the context in which different policies should be applied and helps to avoid, for example, any disclarity over whether a particular paragraph only applies to one, the other, or both.

- 3) **Do you agree with the proposed set of annexes to be incorporated into the draft Framework?** *Strongly agree, partly agree, **neither agree nor disagree**, partly disagree, strongly disagree.*

a. **Please provide your reasons, particularly if you disagree.**

The Council has no particular view over the principle of using annexes as part of the NPPF, but acknowledges they can be a useful way of providing more detailed guidance on a particular issue in a format that avoids bloating the relevant chapter of the document itself. The Council has made detailed comments on these annexes in response to later questions.

- 4) **Do you agree with incorporating Planning Policy for Traveller Sites within the draft Framework?** ***Strongly agree**, partly agree, neither agree nor disagree, partly disagree, strongly disagree.*

a. **Please provide your reasons, particularly if you disagree.**

The Council considers there to be advantages to having all statements of national planning policy within one document, partly to avoid duplication, but particularly so that any related policies or potential areas of inconsistency can be more clearly reconciled within the same document.

- 5) **Do you agree with the proposed approach to simplifying the terminology in the Framework where weight is intended to be applied?** *Strongly agree, **partly agree**, neither agree nor disagree, partly disagree, strongly disagree*

a. **Please provide your reasons, particularly if you disagree**

The Council recognises that the existing NPPF uses a range of phrases to differentiate between weighting and understands that this can lead to confusion where local authorities sought to interpret these phrases in a hierarchical way. In this context, the Council supports the principle of simplifying these phrases and has no particular concern with the use of the phrase 'substantial'. Whilst likely to be somewhat more straightforward, this would retain a hierarchy of sorts that will still require planning judgement to determine the appropriate decision when, for example, multiple conflicting issues each require substantial weight.

- 6) **Do you agree with the role, purpose and content of spatial development strategies set out in policy PM1?** *Strongly agree, **partly agree**, neither agree nor disagree, partly disagree, strongly disagree.*

a. **Please provide your reasons, particularly if you disagree.**

The Council supports the ongoing role of spatial development strategies (SDS) and their role in apportioning housing and other strategic needs across an appropriate strategic geography. As a general observation, the Council notes that the list of what SDSs should achieve does not include a specific item around collaboration with individual local authorities or direction over enabling Local Plans. Given the important role of SDSs in individual borough plan-making and decision-making, the Council would support a clearer expectation for those preparing SDSs to collaborative effectively with all those local authorities that the SDS would cover and to ensure the SDS enables the delivery of effective local plans.

With respect to PM2a), the Council considers it logical that the role of SDSs in apportioning housing need would remain in place but notes the phrase "and other uses that are best considered at a strategic scale" is highly open to interpretation. The Council would be somewhat concerned that this phrasing

leaves undetermined what needs they ought to be responsible for apportioning. This part could be improved by providing greater clarity over these needs or the process through which strategic needs would be identified.

The Council also notes that there is no expectation within PM1 over the role of SDSs in setting strategic decision-making policy. Whilst the Council recognises that it is the Government's intention to avoid duplication between the NPPF and development plans, it should be recognised that the London Plan has been responsible for driving ambition in certain policy areas by setting strategic decision-making policies that were considerably more ambitious than national policies, including in areas such as climate change standards and energy efficiency. Whilst the Council accepts it is reasonable to consider whether a future London Plan should be shorter and more focussed and be tasked with avoiding duplication or excessive articulation of local issues, the Council feels it would be regressive as a point of principle to not allow SDSs to set or maintain more ambitious standards where these can be justified by evidence.

The Council would also support the inclusion of a health in all policies (HiAP) approach to recognise the importance of prioritising public health outcomes as spatial development strategies are prepared.

- 7) **Do you agree that alterations should be made to spatial development strategies at least every 5 years to reflect any changes to housing requirements for the local planning authorities in the strategy area?** *Strongly agree, partly agree, neither agree nor disagree, partly disagree, strongly disagree.*

- a. **If not, do you think there should be a different approach, for example, that alterations should only be made to spatial development strategies every five years where there are significant changes to housing need in the strategy area?**

The Council supports the principle of requiring SDSs to be kept up to date. However, on a practical level, requiring alterations to be made to SDSs every five years to reflect any changes to housing requirements but only requiring a full replacement every ten years could create inconsistencies whereby changes to housing need generate alterations that are not effectively or holistically carried through into growth or infrastructure strategies in the same way as they would be during a full replacement.

The Council notes that it is proposed that where fundamental changes to the overall spatial strategy are not required after five-years, alterations could be limited. The Council considers it may be sensible for the five-year deadline for alterations to only apply where significant changes have been made to housing need in the strategy area, to avoid work that frustrates the timely delivery of a more comprehensive update.

- 8) **If spatial development strategies are not altered every five years, should related policy on the requirements used in five year housing land supply and housing delivery test policies, set out in Annex D of the draft Framework, be updated to allow housing requirement figures from spatial development strategies to continue to be applied after 5 years, so long as there has not been a significant change in that area's local housing need?** *Strongly agree, partly agree, neither agree nor disagree, partly disagree, strongly disagree.*

- A) **Please provide your reasons, particularly if you disagree.**

The Council considers that housing requirements derived from SDSs should remain in place beyond five years if there has not been a significant change in that area's local housing need. The Council feels that the five year period should also apply from the adoption of that Council's Local Plan.

A key challenge with monitoring delivery against an SDS-derived housing requirement is that housing requirements are not only apportioned based on spatial distribution of need but also based on land availability, the strategy for accommodating other land uses, and infrastructure delivery. In this regard,

a housing requirement for a borough might be significantly different to its local housing need figure but this might be justified in the context of the SDS's overall strategy because it lacks available land or is accommodating a higher quantum of other uses. It is important to not undermine individual authority's Local Plans simply because the SDS has become five-years old by defaulting to a local housing need figure which is completely abstracted from the spatial and infrastructure strategy of that SDS and the Local Plan.

- 9) **Do you agree with the role, purpose and content of local plans set out in policy PM2?** *Strongly agree, partly agree, neither agree nor disagree, partly disagree, strongly disagree.*

a. Please provide your reasons, particularly if you disagree.

As a principle, the Council supports the NPPF being clear on the role, purpose and content of local plans.

With respect to the specific provisions of Policy PM2, the Council supports the role of Local Plans as setting a vision for the plan area which articulates how the area should change, how development needs will be met and how aspirational aims and objectives will be met. The Council considers the limit on having ten measurable outcomes as somewhat arbitrary and this limit does not appear to be explained in the consultation. The Council would question whether effective monitoring of a Local Plan can take place if there is such a low limit on outcomes and considers it likely that Councils will continue to monitor a wider range of outcomes but may simply not be expected to report on these.

The Council notes that policies other than spatial strategies, site allocations and planning obligations, are only permitted where these support the delivery of specific allocated sites or where these address particular local issues. The Council has no objection to the principle that Local Plans should avoid excessive duplication of national policy but does consider that Local Plans should have greater flexibility to deviate from national policies where there are particular local opportunities or challenges that justify a different approach or additional detail, or where, fundamentally, there is greater capacity in development locally to take a more ambitious approach and this ambition is justified in the context of wider considerations, such as affordable housing need or climate change goals. The Council has provided further thoughts on this issue under Question 11.

From a public health perspective, the inclusion of health and health in all policies (HiAP) approach to local plans and plan-making would strengthen Policy PM2 and improve health outcomes.

- 10) **Do you think that local plans should cover a period of at least 15 years from the point of adoption of the plan?** Yes/No

a. If not, do you think they should cover a period of at least 10 years, or a different period of time. Please explain why.

In the context of wider planned reforms of the plan-making system, the Council considers that there will need to be a renewed focus on making sure the plan-making process is as efficient as possible. Whilst the Council considers long-term (e.g. 15+ year) planning to be fundamentally good practice, and ultimately necessary where local authorities are looking at transformational growth, such as new towns or garden communities, the Council considers that it may be useful to set the minimum period for local plans to cover at 10 years with discretion to go further. This would allow local authorities to focus their plan-making and evidence preparation on a shorter, more predictable timescale, whilst not preventing sensible long-term planning beyond this window.

Given that local authorities will be obliged to commence plan-making within 5 years of adopting a plan (but often sooner), and take no longer than 30 months to produce that plan, in most cases the existing plan would not have automatically become out of date even if it only covers a ten year period. It is also

recognised that many plans which notionally cover a 15 year period will often include limited information on the strategy for years 11 to 15 that will often prove to be unreliable by the time the plan is reviewed.

11) Do you agree with the principles set out in policy PM6(1c), including its provisions for preventing duplication of national decision-making policies? *Strongly agree, partly agree, neither agree nor disagree, **partly disagree**, strongly disagree.*

a) Please provide your reasons, particularly if you disagree.

The Council supports a majority of the principles set out in Policy PM6 but does have concern that the proposal as part of part (c) to prevent local plans from duplicating, substantively restating or modifying the content of national decision-making policies unless directed to by other policies is excessively rigid.

The Council understands the underlying objective of limiting the ability for Local Plans to duplicate national policy on the basis that the tendency to do so can lead to policy documents that are unnecessarily long and difficult to navigate. The Council does not consider it unreasonable to seek to limit verbatim or near-verbatim restatement of national policy. However, there can be advantages to Local Plans including partial duplication of national policy in certain instances, including where it helps to introduce, contextualise and/or justify the implementation of other policies, or clauses within policies, which supplement the objectives of a national decision-making policy. As an example, were a Local Plan to include a locally-justified policy on, for example, open space which includes a small number of additional clauses compared to national policy, it would not appear to be objectionable to reproduce the relevant parts of the national policy to contextualise those additional clauses. Whilst it may be possible to signpost out of a Local Plan to a relevant national decision-making policy, this may lead to inefficiencies where it means policy has to be read across a wider range of documents than it needs to be. The Council would suggest there ought to be an ability for plan-makers to take a pragmatic view on partial duplication where it is sensible and proportionate in context. There is no reason why Inspectors could not take a view on whether the approach to partial duplication is justified as part of Examination.

The Council would have also significant concerns over any inability for local authorities to modify national decision-making policies.

Firstly, it is not reasonable or proportionate for the NPPF to cover the full breadth of planning issues that exist across the country, or to even reflect how a national issue manifests in different ways in different parts of the country. The NPPF is also compelled to take an “averaged out” picture across the country which, for obvious reasons, cannot take full account of the diversity in development viability, need and environmental constraints across the country. This dynamic creates a clear role for Local Plans to articulate how national decision-making policies will be applied locally in a way that also addresses any local nuances to that issue.

Secondly, there is a risk that a restriction on modifying national decision-making policies means that the NPPF becomes a cap on the ambition of planning policy in the country, rather than what it should be which is a framework. As above, there is significant diversity across the country in relation to key issues such as development viability, development needs and environmental constraints. In some areas, there is clearly a stronger policy imperative (e.g. on the basis of needs) or financial capacity (e.g. on the basis of viability) to be more ambitious with local policy. In many cases this can actually support the delivery of national priorities without impacting on deliverability. Overall, this ability for plans to be more ambitious than the NPPF, where justified, is clearly in the public interest. The Council would be concerned that preventing plan-makers from justifying variations or alternatives to national decision-making policies, even where these are clearly justified by evidence, would be a regrettable erosion of ambition that would contribute to a lowest common denominator approach to planning policies. In some areas, where ambition has effectively been incorporated in land values, the erosion of that ambition will simply act to reflate land values to the detriment of public benefits.

In light of these issues, the Council considers that the word “modify” should be better defined to not exclude the ability for local policies to vary or supplement the content of national decision-making policies

with, for example, additional or slightly different criteria which are justified locally. As above, there is no reason why Inspectors could not take a view on whether any local variation or supplementing is justified as part of Examination.

12) Do you agree with the approach to initiating plan-making in PM7? *Strongly agree, partly agree, neither agree nor disagree, partly disagree, strongly disagree.*

a) Please provide your reasons, particularly if you disagree

The Council agrees with the general approach to initiating plan-making, including that, prior to commencing a plan-making process, authorities should design an approach to preparing and adopting the plan within 30 months, having regard to national guidance.

The Council does, however, note that predicting how every task of the process will progress, with certainty, is a clear challenge and the timely progression of any Local Plan will depend on some matters which are completely outside of a Council's control, including, but not limited to, capacity and performance of consultants to support evidence preparation, capacity of statutory consultees and infrastructure providers to inform plan-making, changes to national policy or legislation (particularly those that are unannounced in advance) and electoral restrictions and political changes. In areas with SDSs, there is also the particular dynamic of needing to time plan-making to support implementation of this SDS, and knock-on impacts can unavoidably occur when the SDS itself is delayed.

Whilst these are not strong reasons for not having a policy like PM7 in place, it is important that any assessment of how well an authority has, or has not, met its initial plan produced under PM7 takes account of these uncertainties.

The supporting guidance for plan-making does not appear to be part of this consultation but as a general observation the Council would support this guidance being kept under constant review as authorities progress through the new plan-making system so that live challenges or unexpected interpretations can be addressed in plans that are less advanced.

13) Do you agree with the approach to the preparation of plan evidence set out in policy PM8? *Strongly agree, partly agree, neither agree nor disagree, partly disagree, strongly disagree.*

a) Please provide your reasons, particularly if you disagree.

The Council supports the general approach set out in Policy PM8 and supports the general ambition to restrict evidence preparation to only that which is actually necessary to support a plan.

The Council feels that the current process for examining Local Plans places a clear onus on local authorities to justify the soundness of their policies. This in turn contributes to a sense that local authorities need to have a robust evidence base in place to justify all policy decisions, particularly those where representations have been received in opposition. There is an implicit expectation on local authorities to evidence why their position, and not that raised in the representations, is justified, even where those representations are not themselves evidenced. The Council has made separate comments on the updated tests of soundness but would support measures to presume in favour of policies being justified where there is no clear evidence to the contrary, provided that key evidence documents have been prepared. This would help authorities to keep evidence base preparation proportionate.

As a general point, the Council supports the ability for local authorities to determine what evidence is necessary to justify their particular Local Plans in favour to any prescribed or closed list. It would however encourage the Government to be clear about minimum expectations on evidence preparation, the circumstances which might trigger the need for other evidence to be prepared and to continue to use the Planning Practice Guidance to be clear about how certain key evidence documents should be produced.

The Council notes the Government's expectation that local authorities should better draw on existing evidence and update this where appropriate, in favour of commissioning wholly new evidence. The Council supports this in principle but on a practical level notes there can sometimes be challenges with intellectual property or procurement rules in relation to previous contract which might either restrict authority's ability to directly re-appoint a consultant to update their work, or to appoint a new consultant to update a different consultant's work.

On a practical level, local authorities would also benefit from a greater understanding of what is considered out of date. As a rule of thumb, some evidence documents are often considered unreliable after 5 years, but these can vary substantially as a matter of opinion. It may be beneficial if the Planning Practice Guidance can give further advice on how to test whether evidence remains up-to-date to avoid authorities taken forward older evidence with the implied support of PM8(2) and running in challenges at Examination.

14) Do you agree with the approach to identifying land for development in PM9? *Strongly agree, partly agree, neither agree nor disagree, partly disagree, strongly disagree.*

a) Please provide your reasons, particularly if you disagree.

The Council supports the principle of the approach to identifying land for development in PM9 with particular reference to the Planning Practice Guidance section which should be kept under review.

15) Do you agree with the policies on maintaining and demonstrating cross-boundary cooperation set out in policy PM10 and policy PM11? *Strongly agree, partly agree, neither agree nor disagree, partly disagree, strongly disagree.*

a) Please provide your reasons, particularly if you disagree.

The Council supports the principle that local authorities and other public bodies should engage proactively and regularly with one another during the preparation of plans. The Council notes the particular challenges that the previous Duty to Co-operate legal requirement presented in the system and supports the principle of its replacement with a more proportionate and pragmatic approach.

The Council considers the list of cross-boundary matters to be addressed, set out in PM10(1), to be sensible but possibly not exhaustive. It may be prudent to also consider whether co-operation ought to be promoted, even if on a discretionary basis, on spatial strategy matters or strategic development sites beyond simply determining their optimal location, or on collective evidence preparation.

The Council supports the principle that, where an SDS already effectively deals with a cross-boundary issue, there would be no specific expectation on plan-making authorities to revisit them within their own plans.

16) Do you agree that policy PM12 increases certainty at plan-making stage regarding the contributions expected from development proposals? *Strongly agree, partly agree, neither agree nor disagree, partly disagree, strongly disagree.*

a) Please provide your reasons, particularly if you disagree.

The Council considers it vital that growth is supported by appropriate and well-evidenced developer contributions that help to effectively mitigate the impacts of growth on infrastructure needs, and which provide new affordable housing.

The Council supports the principle that the development plan should provide certainty over the contributions expected from development proposals and supports the flexibility offered by Policy PM12 as to whether this is done on a plan-wide, site-specific or type- or location-specific basis.

In relation to the specific policy requirements, the Council supports the use of developer contribution policies to set clear expectations on the type and level of affordable housing and other infrastructure required and understands the need for clarity on the deliverability and value of those contributions.

At a practical level, the Council understands that it is the Government's intention to move away from the use of Supplementary Planning Documents (SPDs). In the current system, it is common for local authorities to prepare Planning Obligations SPDs which help to provide practical guidance on planning obligations and other developer contributions beyond the detail set out in the Local Plan. The purpose of these SPDs is not to set new policy but to avoid bloating the Local Plan with lots of circumstance-specific or formulaic information that is better laid out within a supporting document. There can also be advantages to such information being included in SPDs given SPDs can be more easily updated within a plan-making cycle.

Within the new plan-making system, it may become the case that local authorities are instead required to set out this detail exclusively in Local Plans or Supplementary Plans. This might have unintended consequences for the length and usability of these documents and could lead to frustrations where there is a view that a developer contribution approach should be altered but the timing of the plan-making process means this is not possible to do in a formal way for some time. Whilst the developer contributions required by the plan-making authority itself could be more easily set at the adoption of the plan, this frustration could easily arise where third-party infrastructure providers update their planning guidance outside of any one plan-making process, particularly where they cover a wider geography such as the NHS. Such providers often use formulas that are updated independently of Local Plans. The Council would therefore encourage the Government to consider whether it is realistic that all developer contributions can be truly set at the adoption of a Local Plan and never require updating before a new plan is put in place or whether more flexibility is required in the form of how developer contributions are defined to allow for this eventuality.

17) Do you agree that plans should set out the circumstances in which review mechanisms will be used, or should national policy set clearer expectations? *Strongly agree, partly agree, neither agree nor disagree, **partly disagree**, strongly disagree.*

a) Please provide your reasons, particularly if you disagree.

The Council's view is that the effective use of review mechanisms is best managed locally, either in an SDS or a Local Plan, on a basis of an understanding of the particular dynamics of that area. For example, if a Local Plan is being brought forward in an area with a generally buoyant development market, that is experiencing short term challenges, any review mechanism will need sensible and bespoke design and articulation to suit that context. The risk with a national approach is that it averages out, or makes assumptions about, the circumstances requiring a review mechanism and leads to a one-size-fits-all approach that leads to ineffective application.

18) Do you agree with policy PM13 on setting local standards, including the proposal to commence s.43 of the Deregulation Act 2015? *Strongly agree, partly agree, neither agree nor disagree, partly disagree, **strongly disagree**.*

a) Please provide your reasons, particularly if you disagree.

Local standards can be a very effective way of providing certainty to developers over how their development should respond to different issues. They can apply thresholds and scaling requirements that

are easily understood and organised so that they can be factored into the design of development from the outset. In this respect, the Council supports the proposal that Local Plans can continue to set local standards on issues including design, parking, affordable housing and infrastructure provision.

It is however not clear why it is necessary for national policy to set a closed list of topics that may be subject to standards, rather than providing for proportionality and restraint by simply indicating a number of tests that any standards would need to meet. This would allow local authorities to bring forward standards on topics which help to provide certainty to developers and are justified in context even where they happen to not fall within any of the headings provided. It is particularly concerning that that standards relating to affordable workspace and employment and skills contributions are not included in the closed list, despite them being an effective and well-delivered policy requirement across London for many years. There is a risk that Policy PM13 as drafted will nullify these policies and prevent the delivery of affordable workspace and employment and skills contributions with no justification. The avoidance of a closed list also allows for future-proofing where it becomes necessary for the planning system to respond to an issue in between updates of the NPPF.

A key issue with setting a closed list of topics is that it does not mean that topics that are unable to be expressed as a standard cease to be material planning considerations. It simply means that local authorities will be unable to address these topics using a simple standards and will therefore, at best, need to communicate their expectations to developers outside of the plan itself – which is inefficient and wasteful – or, at worst, result in a less consistent approach to decision-making which undermines one of the key benefits of the “rules based” approach the Government is seeking to achieve.

Separately, the Council supports the ability for local authorities to continue to make certain optional Building Regulations mandatory, including in relation to Part M4(2) Accessible and Adaptable Dwellings and Part M4(3) Wheelchair User Dwellings, or in relation to water efficiency.

However, the Council has strong concerns over the proposal to severely limit the ability for planning policies to set local standards on energy efficiency. Ambitious energy efficiency policies in London in particular are helping to drive progress towards net zero. The Planning & Compulsory Purchase Act 2004 Section 19 (A) states *‘Development plan documents must (taken as a whole) include policies designed to secure that the development and use of land... contribute to the mitigation of, and adaptation to, climate change.’* The Council has a duty to mitigate for and adapt to climate change. The Planning and Energy Act 2008 - allows local policies requiring energy efficiency and renewable energy, provided they are “reasonable”

The Building Regulations are lagging behind best practice and strategies (as recommended by LETI Climate Emergency Design Guide 2020) for effective action to mitigate and adapt to climate change, including:

- Shift from design intent to actual performance
- Focus on total energy use, not just regulated emissions
- Incorporate new policy tools like energy offsetting or absolute energy targets

The Council is concerned that the Building Regulations regime, including the Future Homes Standard, is inadequate to achieve this standard without complete decarbonisation of the grid. The application of more ambitious energy efficiency standards in London, has, in any case, been subject to significant justification and testing through the examination of the London Plan and subsequent Local Plans. Any renewal or update of these standards will be subject to its own significant justification and testing. A complete legal ban on applying such standards is counter-productive to the achievement of local and national climate change goals. The main argument for these move appears to be concern that varying standards has made it difficult for the construction sector to deploy energy efficiency technologies at scale. Given the potential implications for climate change goals in London, if the Government was to make this move, the Council would expect it to make robust and independent research on this dynamic available for public scrutiny.

- 19) Do you agree that the tests of soundness set out in policies PM14 and PM15 will allow for a proportionate assessment of spatial development strategies, local plans and minerals and waste plans at examination? *Strongly agree, partly agree, neither agree nor disagree, partly disagree, strongly disagree.*
- a) If not, please explain how this could be improved to ensure a proportionate assessment, making it clear which type of plan you are commenting on?

As a general observation, the Council supports the principle of reviewing the existing tests of soundness to ensure they are effective and enable the timely production of sound Local Plans.

The Council considers it sensible to identify separate tests of soundness for SDSs, recognising their different scale and role. The four tests set out appear sensible, however in relation to the test of consistency with national policy, the Council would restate the concerns it raised under Question 11 that prohibiting the partial duplication or modification of national decision-making policies is unjustified and this should instead be a matter upon which plan-making authorities and Inspectors have discretion upon. This is particularly important when there are opportunities or challenges that are unique to an SDS geography, or there are opportunities to take a particularly ambitious approach on a topic, that the rigid application of this clause may unjustifiably frustrate. It is not possible to, nor should the NPPF attempt to, effectively capture a comprehensive and exhaustive position on every topic that is capable of applying in full across every part of the country, without any potential to make logical local variations.

With respect to the tests of soundness for Local Plans, the Council considers the five tests set out to be broadly sensible subject to the same concerns it has raised above, and under Question 11, around the practical interpretation of consistency with national policy, and a general concern over the practical meaning of 'general conformity' in relation to SDSs. From the Council's perspective, the lack of a clear and consistent definition of general conformity within the current system can create challenges whereby local authorities subject to an SDS can struggle to bring forward locally-justified policies that deviate even slightly from the SDS due to the differing interpretations of Inspectors. In some contexts, it is accepted that general conformity allows for fairly significant local variation provided that the overall objectives are aligned, and in others, general conformity is interpreted as requiring a near carbon copy approach. In practice, it is felt that the opinion of the strategic plan-making authority, which in the Council's case is the Mayor of London, is quite often influential on an Inspector's view on general conformity despite examples of the Mayor taking an inconsistent position on general conformity across the same issue in different Boroughs. In order to provide certainty to plan-making authorities and Inspectors, a practical definition of general conformity would be helpful that allows Local Plans to be prepared with confidence and certainty.

- 20) Do you have any specific comments on the content of the plan-making chapter which are not already captured by the other questions in this section?

In relation to Supplementary Plans, the Council notes Policy PM16 sets only two tests which the examination of a Supplementary Plan will determine. Whilst this is consistent with the legal framework in place for Supplementary Plans, the Council would encourage the Government to prepare detailed guidance on how these tests will be applied to aid in their preparation. Given Supplementary Plans will be given equivalent weight to Local Plans, yet will not be subject to the same tests of soundness, there is likely to be some degree of clarity needed over how examiners will treat Supplementary Plans that, as an example, representors are challenging on the basis of a non-applicable soundness principle, such as being realistic or positively prepared.

- 21) Do you agree with the principles set out in policy DM1? *Strongly agree, partly agree, neither agree nor disagree, partly disagree, strongly disagree.*

a. Please provide your reasons, particularly if you disagree.

The Council supports the principle of Policy DM1 specifying broad principles for the submission of planning applications, and the emphasis placed on early engagement for major developments.

The Council has no objection to the principle of requiring planning statements setting out the prescribed matters but would caution against an emphasis that applicants should avoid including any other matters. It can, for example, sometimes be helpful for applicants to include information on how they have addressed constraints that are not intrinsic development plan constraints (e.g. utility infrastructure or capacity) or why alternatives to their scheme have been discounted, particularly where there is a tension with the development plan. This can help to focus and speed up discussions at the planning application stage, particularly where a tension with the development plan is present.

In relation to other types of development, whilst the Council understands the underlying sentiment, it is concerned over the suggestion that applicants should submit the minimum necessary information required to enable a decision. For one, the minimum information required to support a refusal will often be lower than that needed to support an approval, and so this requirement is potentially not effective at supporting positive decision-making. Secondly, it is worded in such a way that fails to provide clarity as to whether it is the local authority or the applicant who determines the minimum necessary information requirements. It should be recognised that, in some circumstances, applicants may have perverse incentives to withhold information and may be able to legitimise this withholding by arguing the information is beyond the “minimum”. To ensure there is restraint to this objective, Policy DM1 should be reworded to state: “Proposals for other types of development should be supported by the minimum necessary information requirements identified by the local planning authority and should not routinely include information that goes beyond what is necessary to enable a decision”.

The Council would also recommend that DM1 places a greater emphasis on the value of effective pre-application engagement, rather than imply, as it currently does, that pre-application may only be required where proposals raise complex planning matters. It should do this by rewording the final sentence to state “Pre-application engagement is also encouraged where proposals would impact a larger number or range of stakeholders or raise complex planning matters, such as the potential effect on heritage assets.”

22) Do you agree with the policy DM2 on information requirements for planning applications?
*Strongly agree, partly agree, neither agree nor disagree, **partly disagree**, strongly disagree.*

a. Please provide your reasons, particularly if you disagree.

The Council supports the principle of being clear that local validation lists should include the information specified in relevant national decision-making policies.

The Council also strongly supports allowing local authorities to set their own information requirements. It does not oppose, in principle, the condition that these information requirements should be limited to those which are set out in development plan policies and applied in a way that is proportionate and relevant to the type, scale or location of a development. However, on a practical note, the Council considers that a transitional arrangement will be necessary for existing development plans to avoid local authorities being prevented from requesting information that is necessary for assessing compliance with an existing development plan policy simply because the existing policy does not reference the information by name. These transitional arrangements could make it clear that existing local validation checklists will continue to apply for an interim period but must be updated upon adoption of a local plan

under the new plan-making system to take account of the restrictions on information requirements within Policy DM2 as currently drafted.

Without this transitional arrangement, or equivalent practical understanding, local planning authorities may be placed in a situation where they are obliged to assess compliance with development plan policies but are not able to request the information they consider necessary to do so. This will not improve the quality or speed of decision-making but rather be likely to increase precautionary refusals or delays as this vacuum is negotiated.

23) Do you have any views on whether such a policy could be better implemented through regulations?

The accompanying consultation document proposes requiring national information requirements through development management regulations, as is the case with Design and Access Statements. While this approach could offer some benefits, a key challenge is not that such documents are not being submitted, but that the material provided is often of inconsistent and inadequate quality, which can delay the assessment of applications. Focusing on improving the standard and clarity of submissions would be more effective than introducing further regulatory requirements.

24) Do you agree with the principles set out in DM3? Strongly agree, partly agree, neither agree nor disagree, partly disagree, strongly disagree.

a. Please provide your reasons, particularly if you disagree.

The Council does not object to any of the principles set out in DM3 but would argue that these are behaviours that it already takes a positive and proactive approach to considering development proposals.

From a public health perspective, the Council considers that development proposals should be co-produced with public health teams, ensuring that public health considerations are embedded across all spaces and stages of development. Maximising health outcomes and reducing health inequities must be central to planning. Health equity is a prerequisite for sustainable growth and, in turn, will positively influence economic and social development.

The Council considers it an omission that behavioural principles are set out for local planning authorities but no behavioural principles are set out for applicants or developers. Whilst it is important to be clear about how local planning authorities are expected to support the Government's overall objectives for the planning system, including in a behavioural sense, the achievement of these objectives clearly also depends crucially on how applicants approach the planning system in a behavioural sense.

The Council would therefore encourage the Government to include an equivalent policy to DM3 which sets out behavioural principle for applicants including in relation to taking a positive and collaborative approach to working with local authorities and their consultees, the timely submission of requested information and a requirement to provide complete, transparent and accurate information.

25) Do you agree that policy DM5 would prevent unnecessary negotiation of developer contributions, whilst also providing sufficient flexibility for development to proceed? Strongly agree, partly agree, neither agree nor disagree, partly disagree, strongly disagree.

a. Please provide your reasons, particularly if you disagree.

There is a clear route set out within DM5 including the circumstances where site specific viability would be considered acceptable, which align with the most common reasons where we expect on-site viability evidence. It is also welcome that the NPPF reiterates that price paid for land is not relevant, however hope value must also be included as part of that sentence as this is often seen on sites with development potential, even though the price paid is not applied. This is relevant on, for example, a site with an existing large property or a large plot of land, which may be demolished and the site redeveloped at a higher density. In this instance the Existing Use Value of the property would form the basis of the Benchmark Land Value, however this would most likely be artificially inflated as a result of hope value. It must therefore be stated that, alongside price paid, any application of hope value must also be disregarded.

In addition, examples of evidence required to justify values should also be included, such as references to BCIS data, the use of realistic market comparables to justify the Gross Development Value, and evidence of comparable rents on commercial property and/or residential properties to inform the GDV. At present the NPPF only states; "It should fully evidence all inputs and assumptions used in the assessment, and explain any differences from those used for viability assessment that informed the relevant plan policies"; this wording does not provide enough direction on what evidence should be used by developers or expected by Local Authorities and may introduce incentives to put forward misleading evidence

26) Do you have any further comments on the likely impact of policy DM5: Development viability?

The overall approach set out in DM5 is not dissimilar from the current approach, in that the focus of viability should be at the Local Plan making stage, however, some changes do need to be made (as referred to in the response to question 25), to make it clearer.

27) Do you have any views on how the process of modifying planning obligations under S106A, where needed once a section 106 agreement has been entered into, could be improved?

Although S106As can be a useful process to unlock sites which may have legitimately stalled as a result of economic impacts etc, there is far too great an emphasis on using of S106As to reduce affordable housing requirements. Although the requirement for a S106A is that the S106 should be more than 5 years old, it remains at the discretion of the Local Planning Authority to accept a S106A application before the 5 years has passed. This use of S106A is especially concerning where the inclusion of affordable housing was a key part of the planning balance and in some cases, the application may only have been approved because of the inclusion of affordable housing. Where an application is then later received under S106A to remove this affordable housing, but to not revisit all other parts of the planning balance, applicants can essentially be requesting permission for a development that, if so proposed from the outset, would not have been approved, and which results in a large part of the public benefits being eroding away.

Because of this, there must be stronger wording to prevent affordable housing requirements from being removed under S106A if they formed a key element as part of the original planning balance. Equally there should be a time limit included where a S106A can be submitted, for example when the site is complete, a S106A can no longer be submitted. At the moment the current process is completely open ended, and regularly in Richmond we have applicants coming back to renegotiate the affordable housing contribution, sometimes even after the dwellings have been built or are occupied. There must be a cut off point, whereby this can no longer be renegotiated to provide more certainty to Local Authorities, particularly relating to affordable housing contributions that are financial in nature, so these can be allocated accordingly without the risk of large numbers of renegotiations on contributions.

Overall it must be clearly stated that the use of S106As should only be considered as a final course of action, after the applicant has left no stone unturned to retain the current level of affordable housing,

and the affordable housing element of any scheme should not be the key reason for any submission of a S106A, similar to the new direction being taken on Section 73 applications.

The focus should remain that, if the changes requested as part of any S106A significantly impact the wider planning balance of the original scheme, then it should not be permitted. This needs to be clearly set out to support decision makers and protect previously agreed levels of affordable housing, ensuring that there are no incentives for applicants to commit to affordable housing in order to secure an approvals then seeking to later come back and reduce that affordable housing through a streamlined process. It is clear in the PPG that the benefits of providing planning permission should be shared between the Local Planning Authority and developer, however, gaining planning permission, then coming back and reducing those benefits significantly when the risk is already significantly lowered for the developer due to already having planning permission, is not an act of good faith or properly sharing the benefits between the parties of granting planning permission.

28) Do you have any views on how the process of modifying planning obligations could be improved in advance of any legislative change, noting the government’s commitment to boosting the supply of affordable housing.

See answer above – overall there needs to be a limit for when amendments can be made so a LPA can have certainty that after a certain point, (i.e completion of the units), any affordable housing whether on-site or financial contributions cannot be renegotiated, the affordable housing contribution should not be the main reason for any amendments, and the planning balance of reducing any affordable housing should be based on the original application so the reduction of any affordable housing can be weighed as part of the original application. For example, the loss of employment floorspace as part of the original application may have only been considered acceptable because of the inclusion of affordable housing.

29) Do you agree with the approach for planning conditions and obligations set out in policy DM6, especially the use of model conditions and obligations? Strongly agree, partly agree, neither agree nor disagree, partly disagree, strongly disagree.

The Council supports the effective use of planning conditions and obligations in line with the established tests set out in existing national policy and guidance. In this regard, it has no objection to the wording of Policy DM6 in relation to the use and application of planning conditions.

In relation to national model conditions, the Council recognises the underlying objective of standardising conditions to improve effectiveness, predictability and consistency. Nevertheless, the Council would suggest that the wording of DM6(3) should be loosened to be clear that where an authority proposes to apply a condition that is addressing the same substantive issue as an issue covered by a national model condition, the national model condition should be used, and that in other circumstances, authorities should seek to adapt and alter national model conditions prior to writing completely bespoke conditions. This would allow for greater standardisation whilst mitigating the risk that authorities are under pressure to find “strong reasons” to not apply national model conditions despite a slightly altered condition better reflecting the particulars of the development. The wording of DM6(4) in relation to a different planning obligation being “more appropriate” could be applied to DM6(3).

In relation to pre-commencement conditions, the Council already limits their application to circumstances where they are necessary in line with national policy. The Council notes that pre-commencement conditions are sometimes unavoidable where there is insufficient information available at the point of determination, but where the imposition of pre-commencement condition would make the development acceptable. If the Government wishes to further restrict use of pre-commencement condition, it should consider creating a clear expectation on applicants to provide all information necessary to avoid the need for a pre-commencement condition at the application stage.

30) **Do you agree that policy DM7 clarifies the relationship between planning decisions and other regulatory regimes?** *Strongly agree, partly agree, neither agree nor disagree, partly disagree, strongly disagree.*

a. Please provide your reasons, particularly if you disagree.

The Council supports clarification over the relationship between planning decisions and other regulatory regimes, including clarification that planning decisions should not seek to duplicate or extend controls imposed by separate regimes other than where there is a development plan policy in place.

The Council does not consider that Part 4 is required and its inclusion creates a strange emphasis on this point despite it being a point which applies equally across the document as a whole. It simply states that development proposals should be approved unless they are contrary to the development plan and national policies and it is unclear this requires greater emphasis for proposals which require changes to address other regulatory regimes than it does any other proposal.

31) **Do you agree with the new intentional unauthorised development policy in policy DM8?** *Strongly agree, partly agree, neither agree nor disagree, partly disagree, strongly disagree.*

a. Please provide your reasons, particularly if you disagree.

Whilst the Council can understand the reasoning for this, particularly strengthening public confidence in the planning system and acting as a deterrent for developers knowingly carrying out unauthorised development or breaching a permission, it has concerns about how this would be put into effect and the implications it would have on fair decision making. In particular:

- It would be difficult and resource intensive to prove 'intent' and it would be necessary to carry out this work on all cases proposing enforcement action / retrospective approval or refusal in order to properly inform the planning balance.
- Applicants could readily claim 'misunderstanding' or 'reliance on contractors' or 'lack of awareness of planning' and challenging this would create work that in reality adds little to the planning process or to good decision making.
- It could lead to a two-tier system whereby a scheme may be unacceptable, refused and/or enforced if carried out with 'intent' but then could, conceivably, be acceptable if proposed by another applicant under the correct procedure. This being the case, decisions could become inconsistent.
- It would bring into questions whether decisions to refuse or enforce that factored in 'intent' carry less weight when being referred to in subsequent applications and appeals? It would become very confusing and complicated.
- Authorities would need guidance on what amounts to 'intent'. For example, would wilful ignorance amount to 'intent'?
- Determining 'intent' can involve some subjective judgements. There is a risk of authorities acting punitively rather than proportionately.
- The Council would question whether this aligns with the enforcement principle of being 'proportionate'.
- If 'intent' must be afforded substantial weight, in some cases it may push decisions towards refusal / enforcement action even where harm could be mitigated, where regularising things would otherwise be straightforward or where enforcement action would be disproportionate to the harm caused.

- Potential for increase in complaints specifically in relation to the Council's view on the developer's intent.

32) Are there any specific types of harm arising from intentional unauthorised development, and any specific impacts from the proposed policy, which we should consider?

a. If so, are there any particular additions or mitigations which we should consider?

No response required.

33) Do you agree with the new Article 4 direction policy in policy DM10? *Strongly agree, partly agree, neither agree nor disagree, partly disagree, strongly disagree.*

a. Please provide your reasons, particularly if you disagree.

The Council supports the effective use of Article 4 directions where necessary to avoid various harms to the character and amenity of local neighbourhoods through uncontrolled development, including through both built development and changes of use. The Council considers that it has used Article 4 directions effectively and with discretion over many years to positive effect.

With respect to Policy DM10, the Council would suggest it may be unhelpful to prescribe circumstances where an Article 4 direction may be used as a 'closed list' but rather allow local authorities, and ultimately the Secretary of State through notification processes, the discretion to consider Article 4 directions in circumstances that are individually justified. The case for this flexibility also exists when considering that permitted development rights could conceivably change in the future to encompass a broader range of development and the need for Article 4 directions to manage a broader range of planning issues might likewise change.

As a particular issue, the Council considers that the circumstances in which Article 4 directions can be used should also include where they are necessary to protect local character. This is particularly important to conservation areas where permitted development rights can erode historic features, architectural details and built heritage. It is not clear whether these would fall under the meaning of local amenity and the Council would suggest the inclusion of 'character' would help to clarify.

34) Do you agree with the proposed approach to setting a spatial strategy in development plans?

Strongly agree, partly agree, neither agree nor disagree, partly disagree, strongly disagree.

a. Please provide your reasons, particularly if you disagree.

The Council supports the principle that development plans should include a clear spatial strategy and, subject to its observations below, considers the prescribed list of matters that a spatial strategy should include to be sensible.

Whilst a matter that is not newly introduced by this new NPPF, it is likely that both an SDS and a Local Plan will bear partial responsibility for addressing Policy S2. The Council considers that Policy S2 could be improved by being clearer about how national policy generally expects development plan documents to address these matters, particularly given that, for example, Part 1a, with respect to defining settlement boundaries, could conceivably be contained within either an SDS or a Local Plan, but Part 1d, with respect to site allocations, would seemingly only be contained in a Local Plan.

With respect to defining settlement boundaries, the Council considers that greater clarity may be needed on this issue when considering urban authorities. If the primary purpose of defining settlement boundaries is to consider the applicability of the subsequent policies within the NPPF, then this requirement may be less useful for an urban authority where the entire built up area may be considered 'within a settlement'. If a wider role for settlement identification is envisaged, Policy S2 could make clearer the advantages of embedding a settlement-based (or neighbourhood / area-based equivalent) approach to plan-making, as is reflected in the area strategies within the Council's own Local Plan.

35) Do you agree with the proposed definition of settlements in the glossary? *Strongly agree, partly agree, neither agree nor disagree, partly disagree, strongly disagree.*

a. Please provide your reasons, particularly if you disagree.

The Council supports the proposed definition of settlements in the glossary, subject to its comments under Q34 above.

36) Do you agree with the revised approach to the presumption in favour of sustainable development? *Strongly agree, partly agree, neither agree nor disagree, partly disagree, strongly disagree.*

a. Please provide your reasons, particularly if you disagree.

The Council has concerns that the revised approach to the presumption in favour of sustainable development risks unbalancing planning decision-making away from the primacy of the development plan and risks significantly limiting the strength of the development plan even when by any reasonable metric that development plan is performing well. Please see responses to subsequent questions.

37) Do you agree to the proposed approach to development within settlements? *Strongly agree, partly agree, neither agree nor disagree, partly disagree, strongly disagree.*

a. Please provide your reasons, particularly if you disagree.

As above, the Council has concerns that the revised approach to development within settlements risks unbalancing planning decision-making away from the primacy of the development plan and instead places excessive emphasis on compliance with national decision-making policies.

Whilst it has strong views on the relationship between national decision-making policies and development plan documents, the Council has no strong opposition to the principle of having national decision-making policies and has indicated, across its responses, support for the principle of a number of them. However, it is clearly impossible and ineffective to define national decision-making policies which cover the full range of material planning issues, or which reflect the full range of circumstances which might impact how a national planning issue is manifested locally. Consequently, limiting the circumstances in which a development proposal within a settlement can be refused to where there is a clear conflict with national decision-making policies alone (with no emphasis placed on development plan policies) risks proposals which are clearly not sustainable development being approved purely because national decision-making policies have failed to adequately foresee or address all material planning issues which ought to be taken into account. The consistency of this approach with the legal framework provided by the Planning and Compulsory Purchase Act 2004, which gives clear primacy to the development plan unless material considerations indicate otherwise, is a matter of concern,

particularly since the envisaged approach seeks to give automatic primacy to the national decision-making policy even where development plan policies are sound, legally compliant and up to date.

To further limit how national decision-making policies should be considered to those “which state that development proposals should be refused in specific circumstances” adds further confusion. There are relatively many policies in the draft NPPF which indicate a requirement for a development to meet, many of which are clear about a standard that should be achieved in order to be considered acceptable. However, there are relatively few policies in the draft NPPF which actively indicate refusal. For example, national decision-making policies on pollution set a range of requirements on developments in relation to limiting, avoiding and mitigating impacts on noise, air quality, water quality and artificial light. These are each worded to indicate that developments should meet these requirements to be considered acceptable. However, they do not explicitly state that development which does not meet these requirements should be refused. Cross-reading with Policy S4 could conceivably lead to an interpretation that a development that is, in all other senses, acceptable but would not provide healthy living conditions for occupiers as a result of exposure to poor air quality, noise or other sources of pollution, should be approved. The Council considers that the overly rigid wording of Policy S4, and its objective of automatically displacing development plan policies, places too great an emphasis on national decision-making policies which are themselves uncomprehensive and untested.

In a practical sense, Policy S4 would also appear to imply that national decision-making policies have to indicate a strong reason for refusal in order for a proposal to be refused, but does not address, for example, how proposals where a development plan policy indicates refusal but national decision-making policies are silent should be addressed. This creates a potential risk of inconsistency with the legal primacy of the development plan over national policy with the content of national policy which seeks to give itself automatic primacy over the development plan.

38) Do you agree to the proposed approach to development outside settlements? *Strongly agree, partly agree, neither agree nor disagree, partly disagree, strongly disagree.*

a. Please provide your reasons, particularly if you disagree.

39) Do you have any views on the specific categories of development which the policy would allow to take place outside settlements, and the associated criteria? *Strongly agree, partly agree, neither agree nor disagree, partly disagree, strongly disagree.*

a. Please provide your reasons.

The Council supports the principle of limiting development outside of settlements to specific exceptions. In general, the Council notes that most of the exceptions align with existing national policy and includes matters such as agricultural development, outdoor sport and recreation, rural diversification, limited infilling and certain forms of re-use and redevelopment of previously developed land.

The Council considers it unlikely that Policy S5 will apply to its area given it is a London Borough and those parts of the borough which fall outside the “settlement” are designated as Green Belt or are Local Green Spaces which are both specifically exempted from Policy S5. The Council therefore leaves it to others to make detailed comments on this policy.

40) Do you agree with the proposed approach to development around stations, including that it applies only to housing and mixed-use development capable of meeting the density requirements in chapter 12? *Strongly agree, partly agree, neither agree nor disagree, partly disagree, strongly disagree.*

- a. **Please provide your reasons, including any evidence that this policy would lead to adverse impacts on Gypsies and Travellers and other groups with protected characteristics.**

As a general observation, whilst the Council understands the underlying objective, it considers the criteria relating to proximity to railway stations to be particularly challenging to implement.

For one, the frequency of services at railway stations is not fixed in perpetuity. The Council is aware of a number of examples of local stations where services have been materially reduced, or have been subject to proposals to materially reduce them. The Council is also aware of stations that may be served by four trains per hour in the peak during a weekday but fall to just one train per hour on a Sunday. The implications of this scenario being taken to satisfy the minimum criteria would be to imply that a development being sustainable can be day or time-specific. In other words, residents of a development should be expected to concentrate all their needs to travel in specific windows during a week. The reality is in such scenarios that residents will still have cause to travel during windows that aren't served by regular services but will instead be far more likely to travel using the private car to make such trips.

Similarly, the criteria is challenging to implement because it is based on travel to work areas which, as a data source, are subject to routine change. It may, for example, be the case that a development is within a Top 60 Travel to Work area when an application is first received but then falls outside of the Top 60 before the development is commenced. Likewise, as above, the frequency of services may fall below or climb above the threshold during the development of a proposal. The Council considers, in any case, that there are likely to be limited differences in the underlying data between, for example, the 59th Travel to Work area and the 61st, and can anticipate speculative applications being made in certain areas which seek to extend the criteria in Policy S5(h) beyond those Top 60 on this basis. It is not made clear how authorities are expected to react to material changes in eligibility during the course of a development that may direct them to a refusing consent for a previously consented development if the only reason it achieved a previous consent was its adherence to these criteria. It may be more effective to set a quantified standard based not on ranking but on the achievement of an absolute score.

As a more general concern, the Council also questions whether the treatment of railway stations in the context of Policy S5 conflates access to a station with access to services. The Council supports high patronage of sustainable transport for a number of reasons, including to reduce congestion, pollution and provide greater mitigation to climate change. However, in some areas, Policy S5 may mean that development can go ahead near to railway stations in a location that is otherwise fairly remote from services. It is very unlikely, for example, that trips to nurseries and primary schools will be taken by rail. Likewise, it is possible that the nearest nursery, school or doctors surgery is not actually accessible by rail (e.g. because the settlement they are located within does not have a station of its own), or, even if they were in theory, they could be located an excessive walking distance from the destination station. The current wording of Policy S5 does not particularly guard against individual circumstances like these which mean that access to a railway station will not preclude a reasonable quantity of trips being made by private car.

- 41) **Do you agree that neighbourhood plans should contain allocations to meet their identified housing requirement in order to qualify for this policy?** *Strongly agree, partly agree, neither agree or disagree, partly disagree, strongly disagree.*

- a. **If not, please provide your reasons**

No comment.

42) Do you agree with the approach to planning for climate change in policy CC1? Strongly agree, partly agree, neither agree nor disagree, partly disagree, strongly disagree.

Partly agree.

a. Please provide your reasons, particularly if you disagree.

The Council welcomes an ambitious and proactive approach to mitigate and adapt to climate change and supports the transition to net zero by 2050.

The Council has no specific concerns over Policy CC1 but suggests that guidance will be required regarding CC1(1a) and how to assess 'baseline carbon emissions and the potential effect of development options on future emissions and their mitigation' in relation to a proposed spatial strategy and allocations. The Council would also question the consistency of the expectation that spatial strategies should aim to contribute to radical reductions in greenhouse gas emissions, which itself is clearly an appropriate objective, with wider proposals to curtail local authorities' abilities to set energy efficiency standards which exceed Building Regulations. For the reasons explained in the Council's responses relating to Policy PM13, the Council is concerned that this contradiction may lead to a scenario where, at least until the grid is decarbonised, local authorities are planning for development patterns which seek radical reductions in greenhouse gas emissions but within those developments, homes and other buildings are built which continue to emit higher than necessary greenhouse gasses and will require retrofitting to achieve net zero.

From a public health perspective, the policy should reference health as a factor impacted by climate change and outline mitigation strategies specifically focused on addressing these risks. For example, recognising that green infrastructure and nature-based solutions can benefit health resilience as well as nature resilience, as stated in Policy CC1 paragraph 1d.

The Council would also question whether stronger protections are required within the policies in this section to ensure that where Local Plans set spatial strategies and allocations which together help to radically reduce greenhouse gas emissions (through, for example, a strong emphasis on focusing development sites along existing or future sustainable travel corridors), developments which fall outside this strategy can be resisted. The Council would question whether the light touch requirements of Policy S4 are sufficient to allow local authorities to resist unplanned and speculative development that fails to conform to a spatial strategy which radically reduces greenhouse gas emissions, noting that climate change, conflict with spatial strategy and housing supply are not matters specifically referenced in Policy S4.

43) Do you agree with the approach to mitigating climate change through planning decisions in policy CC2? Strongly agree, partly agree, neither agree nor disagree, partly disagree, strongly disagree.

a. If not, what additional measures could be taken to ensure climate change mitigation is given appropriate consideration?

The Council welcome the approach to embed climate mitigation across multiple policies, with stronger cross references to other policy areas including sustainable transport (TR3 and 4); conservation of energy and resources (DP3); and nature recovery.

Regarding CC2(1.b) the Council considers the emphasis should be on 'reducing' the need to travel, rather than 'limiting' the need to travel.

The Council also welcome opportunities to re-use existing structure and materials at CC2(1d) and at CC2(2) the 'substantial weight' given to the benefits of improving the energy efficiency of existing buildings.

However, there is an absence of clear policy on embodied carbon and whole life carbon: In many cases, upgrading the UK's existing building stock is more carbon-efficient than new-build development when embodied emissions are considered. Local authorities can play a pivotal role by promoting deep retrofit, requiring whole-life carbon assessments, and encouraging the reuse of materials to reduce lifecycle emissions. In order to achieve climate goals there is a need to provide clear policy and guidance on:

- Requiring Whole-Life Carbon (WLC) assessments for major schemes, based on best practice like GLA's WLC template.
- Prioritising retrofit over demolition, applying circular economy tests to justify new development where re-use and retrofit is an effective alternative.
- Creating embodied carbon benchmarks and offset funds where reduction is not feasible.
- Reusing materials and enabling low-carbon construction through local procurement and policy support.

In this spirit, the Council would support a much clearer retrofit-first policy objective throughout the climate change chapter.

44) Do you agree with the approach to climate change adaptation through planning decisions in policy CC3? *Strongly agree, partly agree, neither agree nor disagree, partly disagree, strongly disagree.*

a. What additional measures could be taken to ensure climate change adaptation is given appropriate consideration?

CC3(1d) requires development proposals take into account the current and potential impacts of climate change over the lifetime of the scheme, and in order to minimise vulnerability to these impacts should, where relevant to the proposal to use design approaches which minimise risks from overheating in accordance with policy DP3(1)(c).

DP3(1) outlines the key principles for well-designed places, and requires that proposals should:

c) 'Climate: contribute to climate change mitigation and adaptation and the transition to net zero, by using building layouts, building orientation, massing, landscaping and materials which conserve energy and other resources, and which minimise risks from the impacts of climate change including overheating;'

There needs to be a stronger steer on holistic climate resilient design to help ensure developers treat CC3 as a coherent framework rather than a checklist.

Further clarity is needed to ensure climate change adaptation is consistently and robustly reflected in planning decisions.

In particular, policy CC3 should give emphasis to:

- Integrated flood risk and overheating management.
- Water efficiency and drought resilience, recognising the growing pressure on local water resources.

Although the intent and delivery are welcomed, there is insufficient detail, or quantitative basis for a decision maker to access a development proposal against.

- 45) Does the policy on wildfire adaptation clearly explain when such risks should be considered and how these risks should be mitigated? *Strongly agree, partly agree, neither agree nor disagree, partly disagree, strongly disagree.***

No response required.

a. Please provide your reasons

- 46) How should wildfire adaptation measures be integrated with wider principles for good design, and what additional guidance would be helpful?**

No response required.

- 47) Do you have any other comments on actions that could be taken through national planning policy to address climate change?**

Whilst the Council supports the intent of the national planning policies relating to climate change, it considers that the national decision-making policies (CC2 and CC3) are too general and fail to give clear enough standards or clear measurable directions regarding effective mitigation of and adaptation to climate change, to provide clear decision making for assessment of planning applications.

Whilst the absence of this detail need not be a problem where it could be delegated to local development plans to set out, based on local opportunities and challenges, this is obstructed by the NPPF's wider objective of preventing local plans from modifying national decision-making policies. This is a good example of the potential incoherency of this restriction, given that it is not possible for national decision-making policies to cover all matters in sufficient detail yet the NPPF also seeks to limit the ability for local plans to add that additional detail.

Policies CC2 and CC3 also do not go far enough to reflect 'true' net zero carbon policies which consider unregulated energy uses (i.e. energy consumption from sources not regulated under Building Regulations Part L, including lifts, plug in devices e.g. fridges, TVs, household appliances) in addition to regulated energy uses (based on required a Target Emission Rate (TER) used in Building Regulations Part L). The use of more comprehensive metrics that provide a more accurate reflection of a building's energy performance, such as Energy Use Intensity (EUI) and Space Heating Demand (SHD), should be utilised to minimise carbon emissions.

- 48) Do you agree the requirements for spatial development strategies and local plans in policy HO1 and policy HO2 are appropriate? *Strongly agree, partly agree, neither agree nor disagree, partly disagree, strongly disagree.***

a. Please provide your reasons, particularly if you disagree.

The Council considers the requirements set out in Policy HO1 and HO2 to be broadly appropriate, in that they largely mirror the requirements of existing national policy. When considering how many homes, and the type, size and tenure of homes, are needed in an area, clarity over how these assessments should be carried out is always vital and traditionally the Planning Practice Guidance has played an important role in setting out expectations and methodologies for these assessments. The Council would therefore encourage the Government to keep the relevant parts of the Planning Practice Guidance under review to ensure they are as effective and helpful as possible.

The Council supports the principle set out in HO2(1) that housing requirements set by an SDS should not be routinely re-tested as part of local plan preparation. It would have some concern over the condition on this that they may require re-testing where there has been a significant change in circumstances. In order to maintain the integrity of the plan-led system and allow local plans to be progressed with certainty, the Council considers it may be helpful to define a significant change in circumstance to mitigate the risk of speculative challenge of Local Plans by landowners and developers which delays plan-making. A significant change could be defined by reference to the publication of an emerging review of that SDS which has indicated that an area may have significantly more capacity than previously identified, or where local housing need for the SDS area as a whole has changed by more than a defined threshold. This definition should avoid reference to local housing need for the individual local authority however, given that one of the key roles of SDSs is to distribute housing requirements based on land availability, constraints and investment, and reasonable deviation from individual local housing need is therefore a legitimate outcome of an SDS's spatial strategy.

From a public health perspective, the Council considers that local authority public health teams should have active involvement with local development plans and the spatial development strategy. Public health should be integrated into all tiers of local planning. Working at the strategic level may miss the opportunity to engage with public health where it sits at different levels in different LAs.

- Public health professional should be equipped to lead collaboration with planners, health, social care, and housing sectors to make health central to planning and reduce inequalities.

- Health Impact Assessments should be conducted early in the design process to ensure health, wellbeing, and equity are embedded into design decisions, supporting healthier populations and economic growth.

To ensure a national standardised approach, a quality of housing policy should be developed which adheres to healthy home principles, for example:

- Homes should be safe, affordable, accessible, not overcrowded, ventilated, and of high quality. This includes 'futureproofing' homes for ageing populations.

- Sufficient environmental health resources should also be allocated to protect vulnerable populations from hazards linked to poor housing quality, such as damp and mould.

49) Is further guidance required on assessing the needs of different groups, including older people, disabled people, and those who require social and affordable housing? *Strongly agree, partly agree, neither agree nor disagree, partly disagree, strongly disagree.*

a. If so, what elements should this guidance cover?

As above, the Council considers that clarity over how housing needs assessments should be carried out is always vital and notes that, traditionally, the Planning Practice Guidance has played an important role in setting out expectations and methodologies for these assessments. The Council would therefore encourage the Government to keep the relevant parts of the Planning Practice Guidance under review to ensure they are as effective and helpful as possible.

Changes to the relevant parts of Planning Practice Guidance are not specifically proposed as part of this consultation, however, were any changes to be proposed, the Council would encourage the Government to consult on these changes to ensure they are as robust and consistent as possible.

50) Do you agree with the approach to incorporating relevant policies of Planning Policy for Traveller Sites within this chapter? *Strongly agree, partly agree, neither agree nor disagree, partly disagree, strongly disagree.*

a. Please provide your reasons, particularly if you disagree.

The Council supports the principle of incorporating relevant policies of the PPTS in this section, in that it allows for all requirements to assess the accommodation needs of different groups to be read consistently in one context. The Council does, however, note that the methodological approach to assessing traveller accommodation needs is often very different to how other needs are assessed and it will not always be possible, or effective, to assess these needs together. Authorities will therefore need flexibility to determine how best to assess the accommodation needs of different groups provided that the overarching requirements of national policy are met.

51) Is further guidance needed on how authorities should assess the need for traveller sites and set requirement figures? *Strongly agree, partly agree, neither agree nor disagree, partly disagree, strongly disagree.*

a. If so, what are the key principles this guidance should establish?

The Council notes that in combining the PPTS into the NPPF, some more specific aspects and points of guidance which have informed the methodologies to Gypsy and Traveller Accommodation Assessments (GTAAs) may be lost. There may therefore be advantages to more clearly setting out these expectations in the Planning Practice Guidance. However, to assist in implementation, this guidance should conform to existing practice, reflecting the fact that a majority of GTAAs across the country have been prepared to the same methodology by a very small number of consultants which itself has been informed by established caselaw and precedent, rather than seeking to make changes to practice which are likely to cause unnecessary delays and costs, and generate new caselaw and precedent.

52) Do you agree the new Annex D to the draft Framework is sufficiently clear on how local planning authorities should set the appropriate buffer for their local plan 5-year housing land supply? *Strongly agree, partly agree, neither agree nor disagree, partly disagree, strongly disagree.*

a. Please provide your reasons, particularly if you disagree.

The Council's primary concern with Annex D is that it retains, from the existing NPPF, the imposition of a 20% buffer for decision-making for local authorities whose housing requirement was adopted in the last five years and whose annual average housing requirement is 80% or less of the most up to date local housing need figure. This buffer does not fairly reflect the dynamics of housing requirements established by an SDS, which, in line with the principles set out elsewhere in the NPPF, may make reasonable adjustments to individual Borough housing requirements to take account of spatial variation in land availability, constraints, infrastructure capacity and investment opportunities across the SDS geography. In this context, a Borough may have a housing requirement that is legitimately lower than its local housing need figure because of the effective operation and tested judgement of an SDS but is then punished nevertheless for failing to deliver against its local housing need figure, which is untested. The Council would strongly encourage the Government to further caveat this buffer to make clear that authorities whose housing requirement was established by an SDS will not be subject to this buffer.

In other respects, the Council has no specific comments about Annex D in that it appears to largely reflect existing national policy.

53) Do you agree the new Annex D to the draft Framework is sufficiently clear on the wider procedural elements of 5-year housing land supply, the Housing Delivery Test and how they relate to decision-making? *Strongly agree, partly agree, neither agree nor disagree, partly disagree, strongly disagree.*

a. Please provide your reasons, particularly if you disagree.

The Council strongly disagrees that a 20% buffer should be applied to local authorities where their Local Plan was adopted against the framework published prior to December 2024 and where the annual average housing requirement is less than 80% or less of the most up-to-date local housing needs figure calculated using the most up-to-date standard methodology. This is an unnecessary penalty to Councils who have sought to update their plans in line with up-to-date housing requirements taking into account the time it takes to adopt a Local Plan from start to finish within the previous framework.

For example, the Council's own Local Plan was only very recently adopted through a thorough examination process including the assessment of housing need alongside a deliverable supply of housing. Adding a 20% buffer to the 5 year housing land supply to a recently adopted Local Plan, without any evidence of constrained delivery, and with no regard for the number of deliverable sites within the borough will purely act to erode plan-led decision-making and increase the risk of significant speculative development, which often bring far fewer community benefits due to the lesser weight of Local Plan policies a likely result of the dual impact of a permanent presumption within urban areas (sought to be applied as part of the updates to the NPPF). This will undoubtedly further extend the reach of the tilted balance and reduce clear plan-led decision making for the majority of local authorities even in cases where there have a very recently adopted Local Plan. This is a poorly thought out proposition and will not support a truly plan-led decision making process.

54) Do you agree the requirements to establish a 5 year supply of deliverable traveller sites and monitor delivery are sufficiently clear? *Strongly agree, partly agree, neither agree nor disagree, partly disagree, strongly disagree.*

The Council has no issue with the requirements to establish a 5 year supply of deliverable traveller sites. This section could be improved by making it clear that the requirement to identify and update a supply of deliverable traveller sites is not related to the buffers defined elsewhere.

55) Do you agree the plan-making requirements, for both local plans and spatial development strategies, in relation to large scale residential and mixed-use development are sufficiently clear? *Strongly agree, partly agree, neither agree nor disagree, partly disagree, strongly disagree.*

a. Please provide your reasons, particularly if you disagree.

The Council supports, in principle, the encouragement for development plans to identify suitable locations for large scale development acknowledging that scale is often an important prerequisite for unlocking meaningful improvements for infrastructure and can be an effective way of securing more affordable housing.

With respect to the wording of Policy HO4, the Council notes that there is an implication that all development plans should always identify opportunities for large-scale developments. In terms of implementation, it is challenging to understand how this would be assessed, as terms such as "large-scale" and "significant" are not defined and will therefore be subject to subjective interpretation. It may also simply be the case that there are no suitable locations for large-scale development, at least of a new town or urban extension scale, in a Borough, particularly one that is already urbanised or subject to a number of constraints. The Council would therefore encourage the Government to consider revising

the wording of HO4 to be clear that the requirement for authorities to identify locations for large-scale developments is subject to sensible judgements about whether such locations exist in the area, perhaps with reference to wider Government work such as the New Towns Taskforce and the role of SDSs, and/or to consider setting a definition of large-scale development to allow reasonable judgements to be made.

- 56) Do you agree our proposed changes to the definition of designated rural areas will better support rural social and affordable housing?** *Strongly agree, partly agree, neither agree nor disagree, partly disagree, strongly disagree.*

No response required.

- 57) Do you agree with our proposals to ask authorities to set out the proportion of new housing that should be delivered to M4(2) and M4(3) standards?** *Strongly agree, partly agree, neither agree nor disagree, partly disagree, strongly disagree.*

The Council strongly supports the continued ability for the development plan to set out that a proportion of new housing should be delivered to M4(2) and M4(3) standards. Such requirements are critical to ensure that the housing needs of those with limited mobility are met where general needs housing built to the mandatory standard would not.

- 58) Do you agree 40% of new housing delivered to M4(2) standards over the plan period is the right minimum proportion?** *Strongly agree, partly agree, neither agree nor disagree, partly disagree, strongly disagree.*

- a. Please provide your reasons, and would you support an alternative minimum percentage requirement?**

It is important that any prescribed proportion is treated as the absolute minimum, noting that the London Plan sets out a requirement for 100% of dwellings to be built to Part M4(2) standards, with at least 10% built to Part M4(3) standards. Development plans should continue to be empowered by the NPPF to set minimum standards which exceed any nationally prescribed minimum based on evidence.

The Council has no strong view as to whether 40% is the appropriate minimum proportion for the country as a whole, noting that the proportion required in any one area will vary depending on local need and past delivery rates.

- 59) Do you agree the proposals to support the needs of different groups, through requiring authorities to identify sites or set requirements for parts of allocated sites are proportionate?** *Strongly agree, partly agree, neither agree nor disagree, partly disagree, strongly disagree.*

- a. Please provide your reasons, particularly if you disagree.**

The Council has no opposition to the principle of encouraging plans to allocate sites, or parts of sites, for particular uses which is fundamentally a good planning principle and the existing practice of most plans. However, in practical terms, there will always be varying degrees of market interest and viability associated with different uses, which can make it challenging to mandate the use of particular sites for uses that are perhaps nichier or less viable, particularly where the land being promoted to a Local Plan does not express availability or market interest in the full range of uses set out in HO5(c). This can lead

to challenges where land is allocated, in full or in part, for uses that the landowner and eventual developer has no intention to build out, and it is noted, other parts of the NPPF, give developers significant latitude to develop for a different use to an allocation where they can demonstrate there is no reasonable prospect of the allocated use being developed. Because of this, a degree of pragmatism will always be needed when considering HO5(c) to avoid plans being found unsound simply because there are no specific sites being promoted which are suitable or available for all of the prescribed uses.

60) Do you agree with our proposals to ask authorities to set out requirements for a broader mix of tenures to be provided on sites of 150 homes or more? *Strongly agree, partly agree, neither agree nor disagree, partly disagree, strongly disagree.*

a. Please provide your reasons and indicate if an alternative site size threshold would be preferable?

As above, the Council has no opposition to the principle of encouraging mixed tenure sites, which it considers to be a sound planning practice. However, this requirement would again need to be interpretation with a degree of pragmatism as not all sites of 150 homes or more will be suitable for a mix of tenures, or there may be insufficient market interest in certain tenures in certain locations, or the balance of needs and delivery in a Borough might mean it is inappropriate to require a mix of tenures on every site. As an example, if a Borough has a relatively small need for purpose-built student accommodation when compared to general needs housing, this might point to requiring only a small percentage of units on mixed tenure sites to be for students – for example 10%. However it is highly unlikely that a purpose-built student accommodation provider will see it as viable or attractive to deliver potentially as few as 15 units on every mixed tenure site, and it would likely be better for many reasons, including viability, for that need to be met by concentrating delivery of a greater number of mixed tenure units across fewer sites. As a result, the Council would suggest that HO5(d) should be revised to encourage plans to identify where, through site allocation policies for sites of 150 homes or more, a mix of tenures should be delivered, as opposed to requiring a mix of tenures on every site of 150 homes or more.

61) Do you agree with proposals for authorities to allocate land to accommodate 10% of the housing requirement on sites of between 1 and 2.5 hectares? *Strongly agree, partly agree, neither agree nor disagree, partly disagree, strongly disagree.*

a. Please provide your reasons

The Council supports the principle of local plans supporting a diverse mix of sites. It has no specific objection to the principle that at least 10% of a housing requirement should come from sites smaller than one hectare and a further 10% on sites between 1 and 2.5 hectares other than to recognise the particular supply of land in a Borough might, on occasion, make this challenging to deliver.

62) Are any changes to policy HO7 needed in order to ensure that substantial weight is given to meeting relevant needs?

The Council supports the principle of decisions giving substantial weight to the benefits of providing housing where there is an evidenced need for that housing, however it considers it important that Policy HO7 is not abstracted from the wider objectives of the planning system, including the NPPF. Sustainable development depends on the full range of needs being met in an area in a way that

achieves high quality living standards, and takes meaningful opportunities to preserve and enhance the natural and historic environments.

There is a risk that the wording of HO7 is used as a justification to promote development which uses the substantial weight attached to any development that helps to meet housing needs to justify development that detracts from the ability for the full range of needs to be met (through, for example, loss of employment land), a failure to provide high quality living standards or which foregoes reasonable opportunities to preserve or enhance the natural and historic environments. This could be emphasised that revising HO7 to state “Where consistent with the policies in this Framework, substantial weight should be given...”

63) Do you agree that proposals to add military affordable housing to the definition of affordable housing, and allow military housing to be delivered as part of affordable housing requirements, will successfully enable the provision of military homes? *Strongly agree, partly agree, neither agree nor disagree, partly disagree, strongly disagree.*

a. Please provide your reasons, particularly if you disagree.

The Council supports the principle of adding military affordable housing to the definition of affordable housing but notes this is not a form of housing that has generally been assessed or planned for in the current planning system and there may be value in additional guidance on the expected approach to assessing this need.

The Council notes that it is envisaged that the Ministry of Defence would provide evidence of local unmet need for military affordable housing. It would be useful if the Planning Practice Guidance could be updated to provide guidance on how to access, or otherwise assess, evidence of this need, particularly since the Ministry of Defence is not a typical consultee on planning matters.

64) Do you agree flexibility relating to the size of market homes provided will better enable developments providing affordable housing? *Strongly agree, partly agree, neither agree nor disagree, partly disagree, strongly disagree.*

a. Please provide your reasons, particularly if you disagree.

The Council supports the principle of ensuring that affordable housing delivery, and social rented housing in particular, is maximised as both a proportion and tenure in order to meet urgent local needs. The Council therefore does not oppose the principle that where the proportion and mix of affordable housing tenures is met or exceeded, decision-makers could take a more flexible approach relating to the size of market homes, taking into account prevailing market conditions, in the sense that this might make developments more viable and therefore more capable of achieving affordable housing policies.

It is important, however, that flexibility is not taken to mean the complete disapplication of relevant policies. In this respect, it is important that local authorities retain the ability to ensure a development would still provide a mix of sizes of market homes, even if that mix does not precisely meet their housing size policy, to avoid issues of legitimate planning concern such as where developments lead to an over-concentration of single-person dwellings in an area, or where a development would fail to deliver family housing in areas where the need for family market housing is particularly great. This policy requirement could therefore be improved by being clearer that any flexible approach should take into account not only prevailing market conditions but the relative availability, and need for, of different sizes of home in that neighbourhood.

65) Would requiring a minimum proportion of social rent, unless otherwise specified in development plans, support the delivery of greater number of social rent homes? *Strongly agree, partly agree, neither agree nor disagree, partly disagree, strongly disagree.*

a. If so, what would be an appropriate minimum proportion and development size threshold taking into account development viability?

The Council considers it important that development plans set out an appropriate and ambitious strategy for meeting social rented need. This is particularly important for a Borough like Richmond, given that social rented housing is by far the tenure most needed in the Borough, both in terms of volume and severity of need.

The Council considers that it is Local Plans that are best placed to identify the appropriate minimum proportion on the basis of a local assessment of housing needs and development viability. Whilst any Local Plan policy would conceivably still be capable of setting a minimum proportion above that national figure, the Council would be concerned that any nationally defined minimum, which would not be capable of reflecting the vastly differing levels of need and viability across the country and would therefore be likely to be set fairly low, could be used as a means to seek to undermine more ambitious local plan policies, which are nonetheless justified by local evidence, by suggesting that they are disproportionate when compared to the national figure. This is particularly true when considering the wording in the annex of the consultation document which suggests local plan policies which are inconsistent with the NPPF should be given limited weight. Without proper care, the setting of a national minimum proportion for social rented housing might therefore actually harm social rented housing delivery by constraining the potential for more ambitious local policies.

66) Are changes to planning policy needed to ensure that affordable temporary accommodation, such as stepping stone housing, is appropriately supported, including flexibilities around space standards?

a. If so, what changes would be beneficial?

Policy changes are certainly needed. The Council strongly recommends that appropriate space standards must apply to temporary accommodation (TA), at present there are no specific space requirements which apply to TA. This is absolutely crucial given that on average we know in London some households spend 3 years in TA, with some room sizes as little as 10-11sqm. This is completely inappropriate to allow a person with likely all their possessions to remain in accommodation that would not even be considered as a habitable room (minimum 13sqm), in C3 housing. The Council understand that TA is in short supply, however, it is crucial that the households themselves are also considered. It also needs to be made clear within the NPPF that TA does not fall within the affordable housing definition as the amount paid by the individual to the Council is not regulated, and the amount the landlord charges the Council for TA is also not regulated, often resulting in a huge financial gap between what the individual pays for TA, and what the Council pays for the accommodation, especially relating to nightly/bed and breakfast accommodation, where the landlord is able to make substantial sums of money due to the desperate situation of housing. It is important this is specially acknowledged in the NPPF, as it is currently within the Mayor's London Plan Supplementary Planning Guidance (para 2.51), which states; "However, non-self-contained accommodation and hostels should not be classed as affordable provision. Affordable housing contributions on these schemes will be assessed through the Viability Tested Route, and should be provided as separate or off-site self contained provision, or cash in lieu payments". This must be set out clearly within the NPPF to avoid ambiguity and large sums of money being made from housing which is not considered as affordable.

67) Do you agree that applicants should have discretion to deliver social and affordable housing requirements via cash payments in lieu of on-site delivery on medium sites? *Strongly agree, partly agree, neither agree nor disagree, partly disagree, **strongly disagree.***

- a. If so, would it be desirable to limit the circumstances in which cash contributions in lieu of on-site delivery can be provided – for example, should it not be permitted on land released from the Green Belt where the Golden Rules apply? Please explain your answer.**
- b. If you do not believe applicants should have blanket discretion to discharge social and affordable housing requirements through commuted sums, do you think cash contributions in lieu of on-site delivery should be permitted in certain circumstances – for example where it could be evidenced that onsite delivery would prevent a scheme from being delivered? Please explain your answer**

The Council strongly believes that affordable housing contributions should be delivered on-site unless exceptional circumstances justify otherwise. Delivery of affordable housing on-site helps to deliver mixed and balanced communities, by delivering tenure blind affordable housing within developments of market housing and helps to guarantee delivery by avoiding the responsibility for delivery being offloaded onto local authorities, many of whom may not be equipped or resourced to acquire or develop affordable housing of their own.

In this context, the Council considers that restrictions within Policy HO8 on the circumstances in which off-site delivery or cash payments may be paid should be maintained.

The Council recognises that medium sized sites can sometimes find it challenging to deliver affordable housing on-site, particularly where the number of affordable homes on-site is below the threshold that would typically attract Registered Provider interest. However, the Council considers that existing policies provide enough flexibility to account for this scenario, and national policy does not need to offer unqualified flexibility to medium sites including those who are not experiencing this challenge. The Council also notes that the consultation does not recognise wider dynamics where on-site delivery can be beneficial to medium sites and Government's wider objectives, including Lichfields' Start to Finish research which shows that on-site delivery of affordable housing is associated with faster build out rates, as a result of early cash injections from Registered Providers.

Allowing developers discretion to make payments in lieu other than in fully justified circumstance, such as that above, would introduce a range of perverse incentives into the planning process, each of which is detrimental to the delivery of affordable housing. For one, it is an unfortunate reality that delivering developments without affordable housing on-site achieves a premium on sales values, meaning that affordable housing being converted into payments in lieu will not simply change the form through which that same volume of affordable housing is delivered but rather offers incentives for developers to make larger profits. Secondly, for the reasons above, allowing payments in lieu to routinely replace on-site delivery will lead to scenarios where the vast majority of developments being built are single tenure with market housing contained in some locations and affordable housing located in others, typically on public land, which is harmful to the role of the planning system in supporting mixed and balanced communities.

Where payments in lieu are accepted, the Government should also recognise that many local authorities are not equipped or resourced to acquire or develop affordable housing of their own, and even where they are, they will still require resourcing to put in place plans to deliver affordable housing using the payments. Unless the value of payments in lieu are adjusted to account for the resource costs required to spend them, their net value will be far below the number of affordable homes they are purported to be equivalent to. Given the sales value dynamics set out above, and the resource costs, the Council considers that the NPPF should be clear that payments in lieu towards affordable housing, irrespective of circumstance, will need to include a buffer to cover all resource costs and reduce incentives.

- 68) What risks and benefits would you expect this policy to have? Please explain your answer. The government is particularly interested in views on the potential impact on SME housing delivery, overall housing delivery, land values, build out rates, overall social and affordable housing delivery, and Registered Providers (including SME providers).**

Please see the Council's response to Question 67.

- 69) What guidance or wider changes would be needed to enable Local Planning Authorities to spend commuted sums more effectively and more quickly? Please explain your answer.**

One of the key barriers to spending agreed S106 monies is the concern of this figure being renegotiated through S106a and/or Section 73, as well as slow payments from developers. This is referred to further in questions relating to S106s and planning obligations, there must be further emphasis within the NPPF on timely payments of S106 monies and clear sanctions of what could happen to developers if this is not paid. Even with interest included on late payments, still Richmond often have to take enforcement action due to unpaid S106 contributions.

If for example there was a time limit when planning obligations could be renegotiated the Council would have greater certainty of the money agreed, which would allow us to project spending with more certainty. The ability for developers to renegotiate S106 contributions for affordable housing in an open ended way, makes it very risky for LPAs to be sure what has been agreed, in relation to what will actually be paid, and how much will be renegotiated, along with the resources and time taken to protect previously agreed levels of contribution which can be renegotiated multiple times as there are no measures in place to limit this process.

- 70) Would further guidance be helpful in supporting authorities to calculate the appropriate value of cash contributions in lieu?**

- a. If so, what elements and principles should this guidance set out? Please explain your answer. For example, guidance could make clear that contributions in lieu should be an amount which is the equivalent value of providing affordable housing on site, based on a comparison of the Gross Development Value of the proposed scheme with the Gross Development Value of the scheme assuming affordable housing was provided onsite.**

The Council generally always uses the recommended method within London Plan guidance to calculate the contribution which is as above. However, more direction is required in relation to the application of profit as part of this process, as this is often a point of contention and an area that lacks clarity within the PPG. For example, when switching affordable to private, the GDV will change, however the level of profit applied to market housing is normally 17.5% and affordable is generally 6%. Now if affordable housing is flipped to market housing and the developer pays the required contribution, their profit margin will of course increase as now all the units will have a 17.5% profit applied, however, the expectation is that there should be no direct benefit to the developer, therefore the units flipped to open market should have a profit of 6% maintained. However, many developers say applying 17.5% profit to the flipped units is justified due to the additional risk associated with selling the extra market homes, and lack of golden brick payment for the affordable homes, which would be on commencement of the homes, providing much needed cashflow on many sites. From our perspective professionally there is merit on both sides of the argument, as of course the lack of early cash flow is a struggle for SME's especially. Therefore further guidance is definitely needed to provide clarity and consistency to developers and local authorities.

71) Do you support proposals to enable off site delivery where affordable housing delivery can be optimised to produce better outcomes in terms of quality or quantity? *Strongly agree, partly agree, neither agree nor disagree, partly disagree, strongly disagree.*

a) Please provide your reasons, particularly if you disagree.

As set out above, the Council considers that the strong priority with any development should be to deliver affordable housing on-site, to ensure delivery and to contribute to the creation of mixed and balanced multi-tenure communities.

The Council has no objection to the principle of permitting off-site delivery in exceptional circumstances where it can be demonstrated that doing so would be in the clear public interest, i.e. where it would enable the delivery of a greater number or quality of affordable homes of the right tenure. However, the Council considers that the relevant clause should be revised to make it clearer what 'optimise' is taken to mean in practice. In particular, the clause does not refer back to tenure requirements and there is a risk that "optimising the [quality or] quantity of homes built" could be taken to mean that any increase in the overall number of affordable housing will justify off-site delivery, even if the underlying tenure mix is clearly not optimised.

In light of the above, the Council would recommend that the clause is revised to be clear that off-site delivery on an alternative nearby site would only be considered acceptable in exceptional circumstances where doing so would deliver a greater number of affordable homes, in line with local tenure mix requirements, or deliver the same number of affordable homes at an improved tenure mix or quality.

72) Do you agree with the criteria set out regarding the locations of specialist housing for older people? *Strongly agree, partly agree, neither agree nor disagree, partly disagree, strongly disagree.*

a. Please provide your reasons, particularly if you disagree.

The Council has no specific concern over the criteria set out regarding the locations of specialist housing for older people other than to note that it is open to significant subjective interpretation and should not be treated as a closed list.

For example, the Council notes that the term 'frequently-used services' is not defined and this lack of definition could easily become a point of disagreement where a local authority deems a lack of access to a particular service to be an issue, but the applicant can point to a lack of clear evidence that the Government intended that service to fall under this category. A definition of frequently-used service should be added to the glossary and should be taken to include education facilities, healthcare facilities (including GPs and dentists), pharmacies, and shops selling a range of products.

73) Do you agree with the criteria set out regarding the locations of community-based specialist accommodation, including changes to the glossary? *Strongly agree, partly agree, neither agree nor disagree, partly disagree, strongly disagree.*

a. Please provide your reasons, particularly if you disagree.

No comments.

74) Do you agree with the criteria set out regarding the locations of purpose-built student accommodation and large-scale shared living accommodation, including changes to the glossary? *Strongly agree, partly agree, neither agree nor disagree, partly disagree, strongly disagree.*

a. Please provide your reasons, particularly if you disagree.

As above, the Council has no specific concern over the criteria set out regarding the locations of purpose-built student accommodation and large-scale shared living accommodation other than to note that it is open to significant subjective interpretation and should not be treated as a closed list.

In London in particular, prevailing development economics are driving a significant increase in the delivery of purpose-built student accommodation and large-scale shared living accommodation. Whilst it is important that the housing needs of those who rely on these forms of accommodation are met, there are significant risks attached to this trend, including the displacement of conventional housing supply, which diminishes the ability for local areas to meet their needs for general needs and affordable housing. Whilst proportionate delivery of a range of housing types can support mixed and balanced communities, this increasing trend across London and other places can be detrimental to achieving this objective if it leads to an overconcentration of single-person housing in a neighbourhood and/or it undermines attempts to meet urgent and serve affordable housing needs where sites which could have met affordable housing needs are instead developed for forms of accommodation (such as student and shared living accommodation) which are not required to contribute towards conventional affordable housing.

75) Do you agree the proposals provide adequate additional support for rural exception sites? *Strongly agree, partly agree, **neither agree nor disagree**, partly disagree, strongly disagree.*

a. Please provide your reasons, including what other changes may be needed to increase their uptake?

No response required.

76) Do you agree with proposals to remove First Homes exception sites as a discrete form of exception site? *Strongly agree, partly agree, **neither agree nor disagree**, partly disagree, strongly disagree.*

a. Please provide your reasons, particularly if you disagree.

No response required.

77) Do you agree proposals for a benchmark land value for rural exception sites will help to bring forward more rural affordable homes? *Strongly agree, partly agree, **neither agree nor disagree**, partly disagree, strongly disagree.*

a. If so, which approach and value as set out in the narrative for policy HO10 of the consultation document is the most beneficial for government to set out?

No response required.

78) Do you agree the proposals to set out requirements for traveller sites at policy HO12 adequately capture relevant aspects from Planning Policy for Traveller Sites, whilst ensuring fair treatment for traveller sites in the planning system? *Strongly agree, partly agree, **neither agree nor disagree**, partly disagree, strongly disagree.*

79) Please provide your reasons, particularly if you disagree.

The Council notes that it is the Government's intention to no longer require local authorities to set their own criteria in relation to the allocation or consideration of traveller site proposals, but to rather use the criteria set out in Policy HO12 as the basis for decision-making. Whilst the Council has no strong view on this proposal, it would note that there may be strong reasons in particular areas to set additional criteria to manage the delivery of traveller sites and that it would encourage the Government to not seek to interpret this change of emphasis into an effective moratorium on the setting of those additional criteria.

With respect to the specific criteria included in Policy HO12, the Council has no specific objection to these noting that they largely align with the criteria set out in the PPTS but would note that certain criteria from the PPTS do not appear to have been directly replicated in HO12. Examples of this include the need for sites to be well planned or soft landscaped in such a way as to positively enhance the environment and increase its openness, which can be an important component of any development but particularly. Such a criteria would appear to be a sound planning principle and should be replicated in HO12.

80) Do you agree the proposals in policy HO13 will help to ensure development proposals are built out in a reasonable period? *Strongly agree, partly agree, neither agree nor disagree, **partly disagree**, strongly disagree.*

a. Please provide your reasons, particularly if you disagree.

The Council welcomes greater emphasis in national policy on ensuring a timely build out of planning permission. Timely build out of planning permissions helps to provide certainty and clarity for local communities and helps to reduce the scope for unplanned and speculative development which can arise where planned developments stall or are otherwise unimplemented.

As a general observation, the Council notes that the Government have recently consulted on a wider range of measures to improve built out, including greater transparency of build out rates and requirements to provide data on planned build out at the planning application and post-consent stages, alongside wider planned measures to allow local authorities to decline to determine applications from developers who have routinely not built out existing permissions. The Council's response to this consultation can be found [\[here\]](#). It notes that Policy HO13 does not directly reference these measures but should do to ensure they are implemented effectively.

The Council would suggest that phrasing included around bringing housing forward "within a reasonable period" should be tightened to be clearer over how "reasonable" should be assessed. It is not clear, for example, whether it is the local authority or the developer who has to find the period reasonable. Where the definition is left subjective, any developer would easily be able to rely on a range of subjective views around, for example, market conditions to justify a slow build out rate. It would be far better for the Government to consider defining objective bounds for build out rates, based perhaps on typologies and densities, and requiring developments to justify build out rates that fall outside these bounds, particularly below lower bounds.

The Council supports the principle of encouraging local authorities to impose conditions requiring development to begin within a shorter period than the statutory default but notes this is subject to considering whether doing so would "expedite the development without threatening its implementation or viability." This makes imposition of such a condition largely contingent on the willingness of a developer, as it would be relatively straightforward for a developer to commence a development in a tokenistic way and then not proceed with building out the site for some time, or to otherwise argue that imposing the condition will threaten their willingness to implement the permission.

81) Do you agree the requirements to take a flexible approach to the consenting framework for large scale residential and mixed-use development is sufficient to ensure the opportunities of large scale development are supported? *Strongly agree, partly agree, neither agree nor disagree, **partly disagree**, strongly disagree.*

a. Please provide your reasons, particularly if you disagree.

The Council considers that the provisions of Policy HO13 with respect to the consenting framework for large-scale sites is not clear enough in its objectives. The Council has no objection to the principle of recognising that the design and configuration of large-scale and multi-phased developments might need to be amended throughout their development to reflect changing needs, priorities or opportunities. However it is important that this sentiment is not taken as an invitation to developers to materially worsen their developments through subsequent amendments. One of the key challenges to maintaining community trust in the planning system is a sense that developers sometimes commit to high quality developments at the initial consenting stage and then, over time, use mechanisms such as Section 73 applications to materially worsen the quality of their development or add additional development with limited public benefit. Whilst there may be many circumstances where such changes are justified to ensure the development remains viable and deliverable, it is always important that this is justified in context and that any necessary evidential justification (e.g. viability appraisals) are open to public scrutiny. The Council considers it may be useful to revise the wording of HO13 to say “b. be flexible enough to respond positively to changing circumstances as phases are brought forward, where justified to reflect changes to housing need, viability and design.”

The Council also notes that part 3a envisages design as a matter that should be secured through the consenting framework, whilst 3b lists it as a matter that should be treated flexibly. Whilst this is in principle valid, it does create a degree of uncertainty over whether design standards for large-scale developments are a matter that should be established from the outset or are a matter that should be fluid. This uncertainty could be particularly challenging to reconcile where, for example, a design code is established at the initial consenting stage but later amendments to, for example, add additional development may compromise that original design code.

82) Are any more specific approaches or definitions needed to support the delivery of very large (super strategic) sites, including new towns? Yes, no

a) Please provide your reasons.

No response required.

83) Do you agree with the proposed changes to the Housing Delivery Test rule book? Strongly agree, partly agree, neither agree nor disagree, partly disagree, **strongly disagree.**

a. Please provide your reasons, particularly if you disagree.

The Council strongly disagree with the proposal that the Housing Delivery test rule book will instead seek to derive the relevant housing requirement from whichever is the most recently adopted plan (whether it is a spatial development strategy or borough/district-level local plan). In the current system the housing requirement is in the first instance derived from the Local Plan until it is more than 5 years old. This ensures that the Local Plan is able to fully support the housing requirement as it is the Local Plan and not the spatial strategy which allocates suitable sites to provide for the housing requirement. With the new approach a Local Plan could be adopted and in only a short amount of time this could be superseded with potentially the Local Plan housing requirement not aligning with the spatial strategy housing requirement. At present the spatial strategy sets the housing requirement, and the local authority then seek to adopt this as part of their Local Plan, which allows a fully evidence based approach to thoroughly consider available sites, carry out a call for sites, and assess the deliverability of sites within the Local Authority area. Superseding this figure as part of the Housing Delivery Test could result in many Local Authorities where a spatial development strategy is present, having to much more regularly reassess their housing requirement which could become out of kilter with their Local Plan creating a considerable amount of further work to allocate further sites or carry out additional call

for sites to re-consider housing requirements and of course additional examination to reassess the housing requirement can be delivered as part of any partial review of the Local Plan. This approach purely seeks to remove strength from Local Plan policies, engage the titled balance more readily and lessen decision making powers.

It also does not allow Local Authorities to justify any significant change in circumstances which affects the overall requirement, resulting in a different housing requirement needing to be justified due to specific constraints or challenges, which from part of the examination process of the Local Plan as this can take into account the specifics of the Local Authority Area, which a spatial strategy is unable to assess the detail at borough level.

The NPPF also seeks to remove the 'lower of' rule, which states that for areas with an up-to-date plan, the housing requirement is the lower of the adopted housing requirement or the relevant local housing need figure. This will mean that authorities are assessed against their adopted housing requirement where an up-to-date plan is in place, and against local housing need where there is no relevant up-to-date plan.

It is the Council's view (as started in response to Q8 above) that if no significant changes have occurred since the adoption of the Local Plan or spatial strategy the housing requirement should remain in place beyond five years and it should not automatically default to the housing needs figure. As stated above, the housing requirement for a borough might be significantly different to its local housing need figure but this might be justified in the context of the overall strategy because of a lack of available land or is accommodating a higher quantum of other uses. It is important to not undermine individual authority's Local Plans simply because the SDS and/or Local Plan has become five-years old by defaulting to a local housing need figure which is completely abstracted from the spatial and infrastructure strategy of that SDS and the Local Plan.

84) Do you agree that more emphasis should be placed on relevant national strategies and the need for flexibility in planning for economic growth, as drafted in policy E1? *Strongly agree, partly agree, neither agree nor disagree, partly disagree, strongly disagree.*

a. Please provide your reasons, particularly if you disagree.

The Council supports the objective of enabling businesses to invest, expand and adapt in ways that reflect local opportunities, challenges and characteristics, and welcomes Policy E1's intention to provide clearer national direction on strengthening economic resilience. We also recognise the value of aligning local planning frameworks with wider strategic initiatives, including the Government's Industrial Strategy, to support long-term sustainable growth.

Richmond borough has a slightly larger share of small and especially micro firms compared with London as a whole, and a greater number of home workers. There have been significant losses in employment land and premises in recent years despite strong restraint policies, in part due to the introduction of Class E and office/Class E to residential permitted development rights and pressure for higher value uses, in particular residential. The continued loss of office stock and industrial land from the borough at past rates is unsustainable.

Invest 2035: the [UK's Modern Industrial Strategy](#) identifies London as Europe's number one destination for Financial and Professional Services Foreign Direct Investment (FDI), and identifies a number of growth driving sectors with the greatest potential for growth. While the Borough has a role to play in supporting these growth driving sectors, the policy appears to give disproportionate emphasis to nationally prioritised industries. This narrow focus risks overlooking the wide range of economic activities that are integral to maintaining the Borough's economic diversity, operational resilience and ability to meet local employment needs.

The Council welcomes that Policy E1(2) recognises there may be circumstances in which it is appropriate to specify acceptable uses at the plan-making stage, particularly as Local Plans need to demonstrate how the forecast need for particular types of employment land and premises over the plan period will be met.

Regarding E1(2), in a borough like Richmond, allowing greater flexibility about the types of uses that would be acceptable on particular sites risks undermining the protection that currently exists for designated and non-designated employment sites and make it harder for the Council to resist proposals for 'lighter' uses on sites currently in industrial use but are located within mixed use and residential areas. These sites serve an important economic function in outer London, for example in the provision of affordable local workspace for small businesses as well as freight and logistics uses to meet local needs and are already under significant pressure for redevelopment for alternative economic and residential uses. For these reasons, the Council considers it particularly important that the word "overly" is emphasised in the context of prescription in order to avoid preventing local authorities from meaningfully guarding against the incremental loss of employment land for other uses. Whilst flexibility over use classes can be justified in certain circumstances, excessive flexibility over use classes can effectively conflate the concept of market attractiveness and economic importance meaning that uses which, for example, attract the highest rents crowd out uses which may make the greatest contribution to local, regional or national growth strategies. This would include avoiding the incremental loss of employment land for residential uses, given that, in most parts of London, residential development returns will still usually exceed commercial development returns.

85) Do you agree with the approach to meeting the need for business land and premises in policy E2? Strongly agree, *partly agree*, neither agree nor disagree, partly disagree, strongly disagree.

a. Please provide your reasons, particularly if you disagree.

Policy E2 is too general to provide clear decision making or for the assessment of development proposals. The Council supports the principle of planning decisions giving weight to the need to meet needs for business land and premises. However, the proposal that economic benefits will automatically carry substantial weight requires further thought. There are cases where, for example, the economic benefits of a development are very limited, particularly where the proposed use provides little meaningful employment, or arguably negative, because the existing land use is more economically productive than the proposed. In these cases, a plain reading of E2(1a) could lead local authorities to conclude that any development that allows businesses to invest, expand or adapt should be given substantial weight. This could be clarified by making it clearer that the weight to be given to economic benefits should scale with the extent of those benefits.

Within E2, there is also a need to provide effective protection of existing employment land and premises (of all types) within locally designated employment areas. Flexible E class, permitted development and continuing pressure to deliver housing are significant challenges to protecting existing employment sites and delivering new employment floorspace.

In order to protect a strategic reservoir of employment (particularly industrial) land, the Council would welcome the removal of Use Class E(g)(iii) from flexible E Class to enable greater protection of light industrial floorspace.

Given the pressure on development land in the London Borough of Richmond there is marked lack of protection within national policy for existing industrial (B2 and B8) and light industrial (E(g)(iii)) land and premises. The revised NPPF should go further in strengthening protections for both existing strategic reservoirs of industrial land and the full range of sites that support active industrial and logistics functions.

The Council would welcome a policy requirement for mixed-use development or co-location of residential and commercial uses, to provide sufficient and secure on-site parking for commercial vehicles to cater for the anticipated commercial use. This should be considered separate from the residential parking requirement and any car-free allocations for residential use.

It is noted that the accompanying consultation document (*Proposed reforms to the National Planning Policy Framework and other changes to the planning system Dec 2025*) states that the factors set out in Policy E2.2 for considering whether an unmet need exists will only apply in “certain circumstances”. However, these circumstances require clearer definition within the NPPF itself.

86) Do you agree with the proposed new decision-making policy supporting freight and logistics development in policy E3? Strongly agree, partly agree, neither agree nor disagree, partly disagree, strongly disagree.

a. Please provide your reasons, particularly if you disagree.

The Council supports Policy E3 aimed at supporting the effective and efficient movement of goods.

However, it is not clear what additional value Policy E3 provides, as the considerations it sets out are already addressed through existing policies at national, regional and local levels, and would ordinarily be assessed in any case as part of plan-making and development management processes. It may be helpful for the NPPF to provide a clear definition of freight and logistics uses.

Policy E3(1a) is drafted too broadly to provide a clear basis for decision-making. What constitutes “good access” will vary significantly depending on the location, operational characteristics and type of development. It is also noted that many industrial development proposals are speculative and seek permission for flexible uses (within Class E, B2 and B8), making it difficult to be specific about anticipated end users and assess the potential impacts.

The Council particularly supports policy E3(1c) and the requirement to provide sufficient secure parking for lorries and other vehicles to cater for the anticipated use. This is particularly important in mixed-use developments including residential. In high PTAL areas, where residential use dominates, developments are designated car-free, sometimes without consideration for commercial vehicles for the commercial units.

Given the lack of availability of alternative sites in the borough, the Council would wish to see existing sites protected for existing freight and logistics uses, even if these are not perceived as optimal sites against the criteria listed in Policy E3, to ensure future supply of land for these important land uses in London.

87) Do you agree with the approach to rural business development in policy E4? Strongly agree, partly agree, neither agree nor disagree, partly disagree, strongly disagree.

a. Please provide your reasons, particularly if you disagree.

No response required.

88) Do you agree with the proposed changes to policy for planning for town centres? Strongly agree, partly agree, neither agree nor disagree, partly disagree, strongly disagree.

We welcome many of the minor changes to policy and support the retention of the centre-first approach. We consider that strategies for town centres can be part of wider place-making policies/ strategies for areas/towns. We support the removal of the 10-year period relating to site allocations and

agree that consideration of capacity and inclusion of site allocations better relates to the plan period. We support the introduction of reference to consideration of design guides, codes and masterplans.

a. Please provide your reasons, particularly if you disagree.

We note the deletion of the reference to markets. Protection for markets is currently included in both the London Plan and the Richmond Local Plan. Markets can be a crucial part of a town's offer which helps to define its individuality as well as providing shops and services for communities.

Whilst diversification of use in borough centres is supported it must be at a level that is suitable for the area as not all high streets are struggling. It is important to retain essential shopping and services for communities in centres, which supports the concept of living locally and 20-minute neighbourhoods. This is particularly important post pandemic where local areas may benefit from additional expenditure resulting from the increase in home working and communities reconnecting with their local areas. The introduction of Class E and associated permitted development rights are a fundamental change to planning for town centres and have undermined the ability of planning policy to properly curate centres to ensure they remain vital, viable, attractive and providing for communities. The reference to Article 4 Directions is however welcomed.

Regarding Policy TC1(1)(c), it would be helpful if what is meant by "complementary use" could be clarified since main town centre uses is already a broad category. We consider it may be helpful to tighten up reference to complementary uses, to read complementary 'town centre' uses.

The Council would like to see Policy TC1 updated to place a stronger emphasis on protecting frontages in centres and other local parades. Having active, well-designed and characterful frontages is a fundamental component in ensuring that town and local centres are attractive to visit and contribute strongly to the sense of vibrancy that supports their vitality. Some centres have had their frontages incrementally eroded by, for example, changes of use which have not been required to maintain or contribute to frontages, or the incursion of excessive or inappropriate frontages and signage (usually through permitted development or deemed consents) which do not contribute to the appeal of the centre. Having a clear emphasis in TC1 on the important of protecting and enhancing frontages would give local authorities more power to ensure town and local centres remain active and attractive to visit, and which support the Government's overall aims set out in the objective box, i.e. "to promote the long-term vitality and viability of town centres."

89) Do you agree with the approach to development in town centres in policy TC2? *Strongly agree, partly agree, neither agree nor disagree, partly disagree, strongly disagree.*

Partly agree. We welcome the continued support for centres and for improving and retaining essential shopping and services.

a. If not, please explain how you would achieve this aim differently?

It would be helpful to have more clarity on the text in brackets in TC2 1 a. As mentioned above, while diversification is generally supported and appropriate, there is some concern that the wording of the policy provides too much flexibility which could result in residential development in somewhat random locations. The vitality and viability of a centre in relation to residential development ultimately requires balance; at a modest scale, residential development increases the number of potential visitors to the centre and creates a perception of activity which supports vibrancy, however at a certain scale, residential development begins to erode the reasons why people who live elsewhere would visit the centre, particularly where the residential development results in the incremental loss of commercial space. The wording within TC2(1)(a) does not effectively guard against excessive residential

development and indeed the inclusion of a word like “balance” within the criteria would greatly improve local authorities ability to navigate this issue.

The reference to “specific locations” could be interpreted as applying only where area based policies relating to specific uses have been identified. Whilst we support flexibility within the centre boundary and recognise the value of residential development, our view is that housing should be located on upper floors (unless contrary to other plan policies), to the rear of commercial premises and potentially as part of well-designed mixed use development to ensure that ground floor occupants of centres with tightly defined boundaries add to vitality and viability and provide for the needs of the community including visitors and businesses. This is particularly relevant where residential land values are high.

90) What impacts, if any, have you observed on the operation of planning policy for town centres since the introduction of Use class E?

See earlier comments. Class E extends unprecedented scope for change of use which has significantly reduced the role of planning policy in shaping centres and ensuring that a range of needs including for social infrastructure are met. The underlying challenge with Class E is that the additional flexibilities it provides means market forces alone will often dictate which uses within Class E are and are not delivered. In practice, this means that less commercially profitable Class E uses, no matter how important to a local and wider economic strategy, are unlikely to be delivered, and there are very limited measures available within the planning system to protect them

There are some positives, such as in providing more flexibility which allows for example, nursery provision to locate in centres which are likely to be accessible by public transport, walking and cycling. However, other important services and shopping can be lost from centres and their value to communities undermined.

The introduction of Class E and associated permitted development rights has had a particular impact on the loss of office and light industrial floorspace, which can also play important roles in designated centres by providing employment and fostering a diverse economic base and supporting much valued local shops and services. In practice, it is rare for Class E premises to revert back to office or light industrial functions once they have converted to retail, leisure or other Class E uses, resulting in a continued net loss of these employment-generating uses.

91) Do you believe the sequential test in policy TC3 should be retained? *Strongly agree, partly agree, neither agree nor disagree, partly disagree, strongly disagree.*

a. Please provide your reasons, particularly if you disagree.

We support the retention of the sequential test which is an important element of centre-first policy and the overall objective of supporting town centres, even if its efficacy has been reduced by the introduction of Class E. The sustainability of locations can still be taken into account when proposals outside of centres are determined.

The sequential test is also particularly important for resisting inappropriate smaller scale schemes (such as more isolated convenience stores within existing residential neighbourhoods), which are not subject to formal impact assessments due to not meeting the relevant threshold but may still give rise to local amenity impacts. Our view is that investment should be directed towards existing centres and parades in the first instance, bearing in mind the urban nature of the borough and the existing distribution of provision.

92) Do you agree with the approach to town centre impact assessments in policy TC4? *Strongly agree, partly agree, neither agree nor disagree, partly disagree, strongly disagree.*

a. Please provide your reasons, particularly if you disagree.

It is appropriate for local authorities to retain the ability to set a local threshold, as retail patterns and the types and scale of development coming forward varies between areas and the mandatory threshold is high.

In order to protect the vitality and viability of town centres it remains appropriate to consider impact and for policy to clearly state that proposals which would have a significant impact should be refused.

In practice, most larger proposals coming forward are accompanied by a Retail Impact Assessment which allows for a proposal specific examination of both location and impact, a requirement which is set out in the Local Plan.

93) Do you agree that the updated policies provide clearer and stronger support for the rollout of 5G and gigabit broadband? *Strongly agree, partly agree, neither agree nor disagree, partly disagree, strongly disagree.*

a) Please provide your reasons, particularly if you disagree.

The Council welcomes the strengthened focus in Policies CO1 and CO2 on the rollout of high-quality digital infrastructure, including 5G and gigabit broadband. The Council recognises the social, economic and educational benefits that improved connectivity can bring and supports national policy that encourages timely deployment of these technologies.

However, Richmond is a borough with many sensitive landscapes, historic buildings and conservation areas where careful design and siting of communication infrastructure is essential. The Council, therefore, considers that further clarity should be provided to ensure that the strengthened support in Policies CO1 and CO2 does not limit local planning authorities' ability to consider local character, heritage and visual amenity, particular in conservation areas and areas of high environmental sensitivity.

The Council also notes that paragraph 120 of the adopted NPPF included a clear proportionality principle, stating that telecommunications and digital infrastructure should be "*kept to a minimum consistent with the needs of consumers, the efficient operation of the network and providing suitable coverage*". This wording has not been brought forward into the drafted policies. The Council considers that retaining a reference to the proportionality principle would provide helpful clarity, ensuring that the rollout of high-quality communication infrastructure continues to balance national connectivity objectives with local considerations, including the protection of sensitive areas, heritage assets, and the character of streetscapes.

Overall, the Council supports the intent of the updated policies but considers that explicit recognition of the need to balance infrastructure deployment with local context and design quality as well as proportionality is required. This would provide greater certainty and to applicants, decision-makers and local communities, and would ensure that the rollout of high-quality communication network is achieved in a way that is sensitive to local communities.

94) Do you agree the requirements for minimising visual impact and reusing existing structures are practical for applicants and local planning authorities? *Strongly agree, partly agree, neither agree nor disagree, partly disagree, strongly disagree.*

a) Please provide your reasons, particularly if you disagree.

The Council supports the overall intention of Policy CO1 to encourage high quality communication infrastructure while managing its visual and environmental impacts. The emphasis on reusing existing

structures and minimising visual harm is appropriate in principle and reflects established planning objectives and aligns with the Council's Local Plan and wider strategic objectives.

The requirement to minimise visual impact is particularly important within the LBRuT, given the borough's extensive conservation areas, historic environment and sensitive landscapes. While the principle is supported, the practical application of visual mitigation measures can be challenging where design flexibility is constrained by technical requirements, or where proposal must be balanced against statutory duties to protect heritage assess and local character. Therefore, the Council considers clearer guidance is required to understand how this policy would operate effectively alongside local plan policies and other statutory designations in regard to design, heritage and landscape protection.

The Council supports prioritising the use of existing structures where practicable, as this helps to reduce unnecessary infrastructure and seeks to manage cumulative impacts of such structures. However, it is considered that greater clarity would be helpful on what constitutes as a reasonable and proportionate assessment of reuse opportunities, particularly where technical or operational requirements may limit feasibility options. In addition, clearer expectations around what supporting evidence would be required would assist both applicants and local planning authorities and help to ensure consistency in decision making.

95) Do you agree the supporting information requirements are proportionate and sufficient without creating unnecessary burdens? *Strongly agree, partly agree, neither agree nor disagree, partly disagree, strongly disagree.*

a) Please provide your reasons, particularly if you disagree.

The Council supports the supporting information requirements set out in the draft Policy CO2 and considers the matters identified are broadly consistent with the approach established in paragraph 122 of the current NPPF. The Council welcomes the emphasis on information being provided 'where relevant', as this appropriately recognises the need for a proportionate and flexible approach, particularly in cases where the nature or impacts of a proposal are limited and can be readily assessed.

96) Do you agree with the approach to planning for energy and water infrastructure in policy W1? *Strongly agree, partly agree, neither agree nor disagree, partly disagree, strongly disagree.*

a. Please provide your reasons, particularly if you disagree, what alternative approach would you suggest?

The Council supports the strengthened national recognition of the critical role that energy and water infrastructure plays in enabling sustainable development, supporting growth and meeting climate change objectives. In this context, the Council broadly supports the approach set out in drafted Policy W1.

The Council partly agrees with the approach in Policy W1, but the main issue is that while the draft NPPF does a good job of highlighting the need for clean energy and water infrastructure (especially in the new section on securing clean energy and water), it does not fully explain how councils are actually supposed to deliver the upgrades when most energy and water investment is controlled by regional providers and regulators, not local authorities. Without clearer guidance on how planning policy will link up with utility companies and national investment frameworks, there is a real risk that developments will be held up because of capacity issues that councils cannot fix on their own.

It is considered that whilst the policy clearly articulates the need for infrastructure updates, it provides limited guidance on how local planning authorities are expected to facilitate delivery in practice. Investment decisions for energy and water are largely controlled by utility providers and regulated at regional and national level, rather than by local authorities. Without clearer direction on how planning policy is intended to align with utility companies, regulators and national investment frameworks, there is a risk that development will be constrained by infrastructure capacity issues that councils have limited ability to resolve independently.

The Council would welcome stronger alignment between Policy W1 and existing strategic framework, including sub-regional policy (the London Plan) and the investment and planning processes of key providers (such as Thames Water and National Grid). In particular, the policy could more explicitly recognise the role of utilities in contributing to evidence bases, infrastructure delivery plans or infrastructure statements to support local plan preparation and decision making.

Further clarity is also required on what constitutes an 'appropriate level' of information from applicants and infrastructure providers. Greater specificity would help avoid delays to plan making and development proposals arising from uncertainty or inconsistent information requirements. Clearer expectations, such as the development scale or thresholds, would provide greater certainty for applicants, local planning authorities and local communities, and support more efficient decision making.

97) Do you agree with the amendments to current Framework policy on planning for renewable and low-carbon energy development and electricity network infrastructure in policy W2? *Strongly agree, partly agree, neither agree nor disagree, partly disagree, strongly disagree.*

a. Please provide your reasons, particularly if you disagree.

The Council welcomes the stronger emphasis on decarbonisation and energy resilience within the drafted NPPF, and supports the aim of drafted Policy W2 to plan positively for renewable and low carbon energy and electricity network infrastructure. However, it is considered that Policy W2 still leaves uncertainty to how local plans are expected to align with forthcoming national and regional energy strategies, and how local planning authorities should coordinate with network operators in practice. Further clarity would be welcomed on the respective roles of local, regional and national bodies in planning and delivering energy infrastructure and how this works in the context of cross-boundary working between local planning authorities.

The Council also notes that the emphasis on co-locating energy supply and demand, particularly in relation to heat networks, could raise issues around customer choice and affordability. Greater clarity would be helpful on how these considerations should be balanced against decarbonisation objectives.

98) Do you agree with the proposed approach to supporting development for renewable and low carbon development and electricity network infrastructure in policy W3? *Strongly agree, partly agree, neither agree nor disagree, partly disagree, strongly disagree.*

a. Please provide your reasons, particularly if you disagree, and any changes you would make to improve the policy.

The Council welcomes the policy to support the development of low carbon energy and electricity infrastructure. However, there is also a need to consider and protect energy affordability, particularly where consumer choice is removed in the case of decentralised energy provision.

W3 is too general and fails to give clear standards or clear measurable direction to provide clear decision making for assessment of energy infrastructure development proposals.

The Council welcomes the intention of Policy W3 to support the development of renewable and low carbon energy and electricity network infrastructure and recognises the importance of this approach in meeting decarbonisation and energy resilience objectives.

However, it is considered the policy remains high-level and as currently drafted it does not provide sufficient clarity on how proposals for energy infrastructure should be assessed in practice, which may limit its effectiveness in guiding development management decisions.

While Council supports the presumption in favour of renewable and low carbon development in principle, it is important that the policy allows appropriate local discretion and proportionality. Part 2 of the policy would benefit from clearer wording to allow for applicants to demonstrate the need where required, to ensure that local context can be taken into account such as heritage, townscape, environmental sensitivities and other locally specific constraints. Inclusion of the wording 'where appropriate' could help to ensure that proposals demonstrate need and compliance with local plan policies without undermining place-based considerations.

The Council supports Part 3 of Policy W3, which recognises a whole-life approach to energy infrastructure. However, this could be strengthened by setting clearer expectations for decommissioning and site restoration. In particular, the policy could require that sites are restored in sustainable and environmentally sensitive manner, with the quality of restoration being at least equivalent to, or better than, the sites original condition. Clearer guidance would support decision makers in securing high standards and enable local planning authorities to robustly assess proposals.

99) Do you agree with the proposed approach to supporting development for water infrastructure in policy W4? Strongly agree, partly agree, neither agree nor disagree, partly disagree, strongly disagree.

a) Please provide your reasons, particularly if you disagree.

The Councils welcomes the inclusion of a dedicated national decision-making policy that recognises water supply, drainage and wastewater infrastructure as legitimate and necessary forms of development which support sustainable growth. It is considered that the acknowledgement that such infrastructure should be given "substantial weight" in decision-making for the capacity needed to serve planned development and improve the security of supply and capacity as well as improved quality and reduced pollution is considered a positive step forward in addressing longstanding challenges in aligning growth with supporting utility services.

However, whilst the Council supports the overarching principles of drafted Policy W4, it is considered that the policy as currently worded lacks sufficient clarity to ensure effective local implementation. The Council considers that there are a number of additions that are required to make this policy more effective, these are detailed below.

Firstly, it is considered there is a need for national policy to require mapping and easily accessible and transparent data on the existing network capacity and planned upgrades. This would allow for plan makers and decision makers to make more informed strategic decisions and ensure decision making is proactive and reduce the risk of undercapacity, delays in development delivery and environmental harm.

Secondly, whilst the Council supports the intent to give weight to infrastructure enabling development, there also needs to be a stronger policy requirement that developers coordinate early on with local planning authorities, water and sewage companies and the relevant statutory bodies (such as the Lead Local Flood Authority and the Environment Agency). This early engagement should be required at pre-application stage to ensure that infrastructure requirements are identified early on before planning applications are submitted to reduce delays in decision making and make informed decision on the design of schemes. These engagement activities should also help to inform the local plan evidence bases on infrastructure delivery strategies.

Thirdly, the policy as currently drafted provides limited guidance on delivery triggers and phasing of water infrastructure relative to planned development. It is considered that policy should refer to mechanisms (such as conditions, or legal agreements) that tie infrastructure upgrades (such as pumping stations, sewage treatment work upgrades, strategic drainage systems that support flood risk management etc.) to development phases to ensure effective and timely implementation to ensure sustainable growth outcomes.

Finally, it is also considered that there needs to be stronger protection of environmentally sensitive areas. Within Richmond, the borough contains a number of sensitive environmental assets, including the River Thames, where the water integrity and ecological integrity are of significant importance. While the Council welcomes the recognition of the benefits related to improving water quality in drafted Policy W4, there should also be stronger protection and clearer expectations where new or expanded infrastructure intersects with the sensitive environment. National policy should therefore be worded to require that infrastructure proposals: (i) avoid adverse impacts on designated sites and protected species, (ii) embed best practice environmental design, and (iii) demonstrate compliance with environmental and ecological standards. This would improve clarity and certainty with decision makers and applicants ensuring the necessary infrastructure does not inadvertently diminish environmental quality.

100) Do you agree with the proposed prohibition on identifying new coal sites in policy M1, and to the removal of coal from the list of minerals of national and local importance? *Strongly agree, partly agree, neither agree nor disagree, partly disagree, strongly disagree.*

a. Please provide your reasons, particularly if you disagree.

There are no current or planned coal extraction sites within the borough, and therefore the proposed prohibition on identifying new coal sites is unlikely to have any direct local impact. However, the Council supports the proposed approach in principle, as it aligns with wider national and local strategic objectives to reduce greenhouse gas emissions, transition to low-carbon energy sources, and promote sustainable development.

The removal of coal from the list of minerals of national and local importance is also welcomed, as it reflects the declining role in coal for energy and the importance of aligning planning policy with climate change commitments. This approach is considered consistent with the broader aim of facilitating the sustainable use of minerals while prioritising environmental protection and climate resilience.

Overall, while Richmond does not have mineral safeguarding or extraction concerns, the Council supports the policy which reinforces the transition away from high-carbon energy sources and ensures planning policy remains aligned with national sustainability objectives.

101) Do you agree with how policy M1 sets out how the development plan should consider oil and gas? *Strongly agree, partly agree, neither agree nor disagree, partly disagree, strongly disagree.*

a. Please provide your reasons, particularly if you disagree.

The Council notes that there are no current or planned oil or gas extraction sites within the borough, and that oil and gas development is not a matter of local planning concern. As such, the Council has

no specific comments on the detailed approach set out in Policy M1 regarding the consideration of oil and gas in development plans.

102) Do you agree with the proposed addition of critical and growth minerals to the glossary definition of ‘minerals of national and local importance’? *Strongly agree, partly agree, **neither agree nor disagree**, partly disagree, strongly disagree.*

a. Please provide your reasons, particularly if you disagree.

The Council notes that there are no current or planned mineral extraction sites within the borough, and that the addition of critical growth minerals to the glossary definition of ‘minerals of national and local importance’ will not have direct implications for the borough.

However, while the revised definition is not directly relevant to LBRuT’s local planning context, the Council welcomes a clear and comprehensive national definition of minerals of importance which will support consistent planning decisions in areas where mineral extraction is relevant, and ensure that critical resources essential to national sustainability and economic objectives are appropriately considered.

103) Do you agree criteria b of policy M2 strikes the right balance between preventing minerals sterilisation and facilitating non minerals development? *Strongly agree, partly agree, **neither agree nor disagree**, partly disagree, strongly disagree.*

a. Please provide your reasons, particularly if you disagree.

The Council recognises the importance of safeguarding mineral resources and avoiding unnecessary sterilisation where such resources are present and viable. In principle, criteria (b) of drafted Policy M2 reflects an established objective of mineral planning policy with recognising mineral resources are finite and should not be lost or sterilised from other forms of development.

However, LBRuT is an urbanised borough with no identified mineral safeguarding areas and no realistic prospect of mineral extraction. The borough is highly characterised by high environmental quality, significant areas of open space, and substantial pressure to deliver housing and community infrastructure. In this context, the practical application of a requirement to secure the ‘*proper extraction*’ of minerals on sites allocated for non-mineral development is likely to be extremely limited and therefore the inclusion of the wording ‘where practical and environmentally feasible’ is considered essential. It is considered that it is important that this requirement is applied proportionately and does not introduce unnecessary complexity or delay to plan making or development delivery in areas where mineral working would not be viable, environmentally acceptable, or compatible with surrounding land uses.

104) Do you agree policy M3 appropriately reflects the importance of critical and growth minerals? *Strongly agree, **partly agree**, neither agree nor disagree, partly disagree, strongly disagree.*

a) Please provide your reasons, particularly if you disagree.

As an urban borough with no mineral sites or mineral processing facilities, drafted Policy M3 is not directly relevant to the borough’s local planning context. However, in principle the Council agrees that the policy appropriately recognises the strategic importance of critical and growth minerals at a national level, particularly in supporting infrastructure delivery, economic resilience and the transition to a low carbon economy.

105) Do you agree with the exclusion of development involving onshore oil and gas extraction from policy M3? *Strongly agree, partly agree, **neither agree nor disagree**, partly disagree, strongly disagree.*

106) Please provide your reasons, particularly if you disagree.

The Council notes that there are no onshore oil or gas extraction sites within the borough and no realistic prospect of such development. As such the proposed exclusion has no direct local implications.

However, the Council agrees in principle with the exclusion of onshore oil and gas extraction from drafted Policy M3, and considers that this appropriately reflects the distinction between critical and growth minerals that are essential in supporting infrastructure and the transition to a low-carbon economy and fossil fuel extraction. This approach aligns with wider strategic objectives relating to climate change and sustainable development.

107) Do you agree policy M4 sufficiently addresses the impacts of mineral development, noting that other national decision-making policies will also apply? *Strongly agree, **partly agree**, neither agree nor disagree, partly disagree, strongly disagree.*

108) Please provide your reasons, particularly if you disagree.

The Council notes that mineral development is not a development type that arises within the borough, and therefore drafted Policy M4 is unlikely to have direct local application.

In principle, however, the Council considers that drafted Policy M4 provides an appropriate framework for assessing the impacts of mineral development, particularly when read alongside other relevant national policies within the NPPF. The acknowledgement that decision-makers must also apply wider policies relating to matters such as residential amenity, transport environmental protection, heritage and climate change is important in ensuring that mineral development is assessed holistically. Provided that this policy is applied proportionately and in conjunction with the broader environmental and amenity protections set out elsewhere in the NPPF, the Council considers that drafted Policy M4 sufficiently addresses the potential impacts of mineral development.

109) Do you agree with approach to coal, oil and gas in policy M5? *Strongly agree, partly agree, **neither agree nor disagree**, partly disagree, strongly disagree.*

a. Please provide your reasons, particularly if you disagree.

The Council notes that there are no onshore coal, oil or gas extraction sites within the borough, and therefore the policy has no direct local implication.

In principle, the Council supports the approach taken in drafted Policy M5. Differentiating coal, oil and gas from critical and growth minerals reflects national climate change and sustainability objectives and provides clarity for decision-makers on the strategic status of fossil fuel development. This approach is consistent with the transition to a low-carbon economy and ensures national planning policy priorities are clearly signalled.

110) Are there any other exceptional circumstances in which coal extraction should be permitted? Yes/No

The borough has no coal resources or extraction sites, and there are no circumstances locally in which coal extraction would be relevant and therefore there are no exceptional circumstances recognised.

111) If yes, please outline the exceptional circumstances in which you think coal extraction should be permitted.

No response required.

112) Do you agree policy M6 strikes the right balance between preventing the sterilisation of minerals reserves and minerals-related activities, and facilitating non-minerals development? Strongly agree, partly agree, neither agree nor disagree, partly disagree, strongly disagree.

a) Please provide your reasons, particularly if you disagree.

There are no mineral reserves or mineral safeguarded areas within the borough and therefore the policy has no direct local application.

In principle, the Council supports the approach set out in drafted Policy M6, which seeks to balance the protection of mineral resources with the facilitation of non-mineral development. The inclusion of the requirement to consider practicality and environmental feasibility is welcomed, ensuring that policy can be applied proportionately and does not create unnecessary constraints in areas where mineral extraction is not viable.

113) Does policy M6 provide sufficient clarity on the role of Minerals Consultation Areas? Strongly agree, partly agree, neither agree nor disagree, partly disagree, strongly disagree.

a. Please provide your reasons, particularly if you disagree.

The borough has no mineral safeguarded areas or minerals consultation areas, and therefore this part of the policy has no direct local application.

In principle, the Council considers the drafted Policy M6 provides sufficient clarity on the role of Minerals Consultation areas for authorities where these are relevant. The policy appropriately sets out that consultations should occur with the relevant mineral planning authorities where proposals may affect safeguarded minerals, ensuring that decision-making is informed and consistent.

114) Do you agree policy L1 provides clear guidance on how Local Plans should be prepared to promote the efficient use of land? Strongly agree, partly agree, neither agree nor disagree, partly disagree, strongly disagree.

115) If not, what further guidance is needed?

As a general principle, the Council supports the efficient use of land noting the benefits this can bring, provided that in all cases the density is appropriate to fit within the prevailing character of an area and is proportionate to the availability of services, including transport connections. In this context, there is a clear and positive role for Local Plans to define appropriate densities, including to identify where opportunities may exist for a change in density.

Policy L1 gives a strong direction on how Local Plans can make better use of land and the Council has no specific concerns over any of the individual clauses within it. However, the Council notes that L1

does not clearly explain how authorities should practically identify or assess opportunities for higher densities. To apply the policy effectively, authorities need to develop a clear understanding of their area, including the likely spatial distribution of development sites, and examine where higher densities can be delivered, especially around town centres and transport hubs. L1 could do this more effectively by promoting the preparation of Urban Design Studies, which the Council has prepared effectively in the past, and providing more detailed guidance in the PPG.

Similarly, while Policy L1 encourages minimum density standards and the optimisation of allocated sites, it does not set out how densities should vary across different areas or how local character should be considered. This therefore needs to establish clear density expectations, supported by design codes that show where greater height or massing is appropriate, so the policy can be applied consistently. Finally, although the policy encourages proactive land assembly, including potential use of compulsory purchase powers, it provides no indication for when such intervention is appropriate. Compulsory purchase remains an unattractive and burdensome process for many local authorities which transfers financial, administrative and risk burdens from private to public sector. In this context, L1(2) places a strong emphasis on public sector intervening to manage private sector market failure, but does not place clear responsibilities onto private developers. L1 could be improved by clarifying circumstances where active intervention may be needed to unlock stalled progress.

116) Do you agree policy L2 provides clear guidance on how development proposals should be assessed to ensure efficient use of land? *Strongly agree, partly agree, neither agree nor disagree, partly disagree, strongly disagree.*

a. Please provide your reasons, particularly if you disagree.

The Council supports the broad principles of Policy L2 in making effective use of land. L2 may benefit from clearer criteria because it identifies the types of development outcomes that should be supported but does not explain how decision makers should judge whether a proposal genuinely represents the effective use of land, for example because a proposal makes “better use” of vacant land, but arguably not the best use, or because it is not clear that the living standards for residents or neighbours are “acceptable” or because a residential curtilage is particularly large, or remote from other buildings, such that the restriction to retain 50% of non-developed area appears unnecessary. Whilst, traditionally, authorities could include more practical criteria and tests in their Local Plans, their ability to do so might be frustrated by wider proposals within this consultation that Local Plans will be prevented from modifying national policies. Knowing how to assess intensification in different contexts, what constitutes acceptable impacts on amenity, or how much weight to give to design considerations could lead to planning officers reaching inconsistent conclusions on similar proposals. More explicit guidance would help ensure that the policy is applied predictably and transparently.

117) Do you agree policy L2 identifies appropriate typologies of development to support intensification? *Strongly agree, partly agree, neither agree nor disagree, partly disagree, strongly disagree.*

a. If not, what typologies should be added or removed and why?

In relation to Policy L2, beyond the comments above, the Council has no specific concerns over the “typologies” listed, other than to note that it is important that broad brush conclusions are not reached over the ability to intensify all sites fitting within these typologies. An obvious example might be within Conservation Areas or World Heritage Sites, where sensitive upward extensions are unlikely to be achievable in a number of cases.

This creates a clear role for local design guides and codes to localise these typologies and to implicitly map exceptions or other local typologies and set out clear parameters for them. For these reasons, Policy L2 could be improved by making it clear that design guides and codes should be given primacy over L2 where a conflict arises.

118) Do you agree the high-level design principles provided in policy L2(d) appropriate for national policy? *Strongly agree, partly agree, neither agree nor disagree, partly disagree, strongly disagree.*

a. Please provide your reasons, particularly if you disagree.

The design guidance in L2(d) is itself unobjectionable but is clearly not an exhaustive list and is defined vaguely. This means that consistent interpretation could be challenging in practice. Traditionally local authorities would address this by using Local Plan policies and design guidance to provide practical criteria and tests to assess compliance with design criteria. However the Council notes that the NPPF is seeking to constrain the ability for local authorities to modify national policies in Local Plans. In practice, this could lead to difficulties where decision-makers are required to exercise ad hoc judgement on the meaning of criteria which use subjective terminology, such as “safe”, “acceptable” and “consistent”, where national policy has taken an editorial decision to avoid defining practical tests for these criteria.

119) Do you agree policy L2 (d)(i) achieves its intent to enable appropriate development that may differ from the existing street scene, particularly in cases such as corner plot redevelopment and upwards extensions. *Strongly agree, partly agree, neither agree nor disagree, partly disagree, strongly disagree.*

a. Please provide your reasons, particularly if you disagree.

The Council has no concern with the principle that inconsistency with the overall street-scene might be accepted where directed by a design code but would be concerned that L2(d)(i) could be taken to imply that inconsistency with the overall street-scene will always be appropriate at street corners, when actually the acceptability of this will be dependent on local character and street layout. L2(d)(i) should therefore be clarified to make it clear that it “[where it] *may be* appropriate to have larger buildings such as at street corners, or...”.

120) Do you agree with the proposed safeguards in policy L2 that allow development in residential curtilages? *Strongly agree, partly agree, neither agree nor disagree, partly disagree, strongly disagree.*

a. Please provide your reasons, particularly if you disagree.

The Council recognises that development within curtilages may be appropriate provided that proposed safeguards are in place, including to ensure the proposed development is of an appropriate scale and form, conforms to local character and does not lead to unacceptable impacts on residential amenity. As the Council has stated in its responses to other questions, it is concerned that the exact wording of Policy L2 is relatively vague and does not include sufficiently practical criteria or tests.

The restrictions on development within curtilages in particular in relation to development not exceeding half the footprint of the existing building and retaining 50% of the non-developed area may be functional as “rules of thumb”, but inevitably with variation in curtilage size and the layout of built up areas, developments which meet these restrictions may still be unacceptable (particularly on smaller plots) and likewise developments which exceed these restrictions may be acceptable (particularly on larger plots).

Traditionally local authorities could address this by using Local Plan policies and design guidance to provide practical criteria and tests to assess compliance with design criteria. However the Council notes that the NPPF is seeking to constrain the ability for local authorities to modify national policies in Local Plans. In practice, this could lead to difficulties where decision-makers are required to exercise ad hoc judgement on the meaning of criteria which use subjective terminology, such as “safe”, “acceptable” and “consistent”, where national policy has taken an editorial decision to avoid defining practical tests for these criteria.

121) Do you agree policy L3 provides clear guidance on achieving appropriate densities for residential and mixed-use schemes? *Strongly agree, partly agree, neither agree nor disagree, partly disagree, strongly disagree.*

a. If not, please explain how guidance could be clearer?

The Council supports the general principle of ensuring development achieves appropriate densities and the list of matters which might be relevant to considering appropriate density in L3(1) are not themselves considered objectionable. However these matters are not an exhaustive list and it is somewhat curious that certain matters are excluded, such as impact upon heritage assets. Whilst it may have not been the Government’s intention to make L3(1) read as an exhaustive list, the absence of a word like “including” could create this sense.

The intention of including “market conditions” in L3(1) is also not clear in this context. Market conditions can sometimes be used somewhat euphemistically to refer to market preferences. Clearly allowing the development market to determine appropriate densities will lead to developments which are optimised for a financial return which will not always be in the public interest.

The Council likewise notes the Government’s intention to avoid developments having to rigidly conform to the density and character of an existing area but is concerned that the second part of L3(2) appears to directly invite developments which ignore local character and density. It is unclear how a local authority is expected to take account of existing character if it is not allowed to prevent development that “makes the most of the area’s potential”. The phrase “area’s potential” is also not defined but could easily be rewritten to create a clearer role for Local Plans and local design codes. Left undefined, it is likely to be interpreted by developers as an opportunity to maximise quantity at any quality, rather than what it should seek to do which is maximise quantity whilst ensuring quality.

122) Do you agree with the minimum density requirements set out within policy L3? *Strongly agree, partly agree, neither agree nor disagree, partly disagree, strongly disagree.*

a. Please provide your reasons, particularly if you disagree.

b. Could these minimum density requirements lead to adverse impacts on Gypsies and Travellers and other groups with protected characteristics? Please provide your reasons, including any evidence

The Council considers the concept of defining minimum densities at a national level to be somewhat unhelpful given the vast variation in character, built form and development potential that exists in different areas. It has no specific objection to setting minimum densities which seek to avoid developments being built to an inefficient use of land, and notes that in any case, minimum densities of 40-50 dwellings per hectare are relatively “undense” for the Borough, but does consider that L3(3)

should include an additional clause to acknowledge that these requirements are in place “unless it can be shown that a lower density maximises the potential of the site”. This would allow sensible planning decisions to be made where particular constraints mean that development at the minimum densities defined would be inappropriate.

- 123) **Do you agree that using dwellings per hectare is an appropriate metric for setting minimum density requirements? Additionally, is our definition of ‘net developable area’ within the NPPF suitable for this policy?** *Strongly agree, partly agree, neither agree nor disagree, partly disagree, strongly disagree.*

a. Please provide your reasons, particularly if you disagree.

While dwellings per hectare is a familiar and widely used metric, it can be limiting when used as the basis for setting minimum density requirements and could oversimplify what an appropriate density is in every context. Local authorities would need flexibility to take sensible decisions on whether dwellings per hectare are being achieved, and likewise in interpreting net developable area, noting that there may be cases where a mix of uses on a site, or spaces which are shared between uses, could create uncertainty as to the genuine density or developable area on a site.

- 124) **Do you agree with the proposed definition of a ‘well-connected’ station used to help set higher minimum density standards in targeted growth locations? In particular, are the parameters we’re using for the number of Travel to Work Areas and service frequency appropriate for defining a ‘well-connected’ station?** *Strongly agree, partly agree, neither agree nor disagree, partly disagree, strongly disagree.*

A) Please provide your reasons and preferred alternatives.

A defined range might be too rigid for some areas while being too permissive for others. A more effective approach may be to retain the principle of higher minimum densities around well connected stations but allow our local plans to define the specific density ranges through area-based assessments. This would maintain national ambition while giving the local authorities the flexibility needed to respond to their distinct contexts.

On the specific approach proposed, the Council notes that use of the top 60 Travel to Work area and reliance on service frequency presents risks particularly where those metrics change. There is no information provided on how local authorities are expected to react when a development’s eligibility under either criteria changes, positively or negatively, as a development is progressing. It is also not clear whether the 61st Travel to Work area is definitively less connected than the 60th, which introduces a risk of developers seeking flexibility outside of these criteria. The Council would suggest it may be better to define a fixed list of locations, or stations, where these criteria would apply to provide certainty and mitigate some of these risks.

More generally, the use of a “well-connected station” test appears superficially logical but relies on a simplistic view on how people access services. For example, it is entirely possible that the settlements accessible from a station do not correlate well with the settlements where the nearest services are located, or the railway may take a circuitous or otherwise indirect route to a settlement of any reasonable size. There will be examples where proximity to a station is actually a poor indicator of a location’s connectivity and trips to services will remain quicker, or cheaper, to make by car. As above, it may therefore be better for the Government to define a fixed list of locations, or stations, where these criteria would apply, which would allow for sensible adjustments to be made where the specific circumstances of a station mean it is inconsistent with the Government’s objectives.

125) **Are there other types of location (such as urban core, or other types of public transport node) where minimum density standards should be set nationally? Yes/No**

a. **If so, how should these locations be defined in a clear and unambiguous way and what should these density standards be?**

As above, the Council considers that setting national minimum densities, particularly where these are lower than prevailing densities in the Borough, is of limited use beyond avoiding developments being built in a way that is a particularly inefficient use of land. The Council is uncertain how a minimum density for an “urban core” would work in practice, particularly given there is significant variation in density within urban areas and an area being urbanised does not mean it necessarily has strong access to services or public transport. It may be better in that context to consider clearer indicators of accessibility, such as local centres or a metric like PTAL as in London.

126) **Should we define a specific range of residential densities for land around stations classified as ‘well-connected’?**

127) **If so, what should that range be, and which locations should it apply to?**

The Council notes that, in London, the Public Transport Accessibility Level (PTAL) is often used to define appropriate densities. Whilst these need to be applied with a degree of wider judgement, given they make broad brush assumptions about sustainability which might not stand true upon specific application, a similar methodology, perhaps contained in guidance, rather than policy, could be a useful way of seeking to ensure development does not routinely come forward at densities that make inefficient use of land having regard to public transport accessibility.

128) **Do you agree policy L4 provides clear high-level guidance on good design for residential extensions? Strongly agree, partly agree, neither agree nor disagree, partly disagree, strongly disagree.**

129) **Please provide your reasons, particularly if you disagree.**

The Council considers that residential extensions is potentially a strangely detailed form of development for national policy to address and notes the NPPF does not, for example, contain standalone policies on other home improvement projects.

Of greater concern is that the terminology used in L4 is open to significant interpretation. It is unclear, for example, what “acceptable” should be taken to mean in the context of living standards. As the Council has expressed elsewhere, traditionally, this would be unproblematic as the Council would be able to use its Local Plan and design guidance to provide more practical criteria for assessing the acceptability of a residential extension. However, the NPPF is seeking to severely restrict the ability for Local Plans to modify national policies. This brings into question whether a Local Plan policy which sought to provide helpful, practical criteria for residential extensions to meet to test whether they would maintain acceptable living standards would be challenging to introduce because it is, at face value, a modification.

130) **Do you agree that policy GB1 provides appropriate criteria for establishing new Green Belts? Strongly agree, partly agree, neither agree nor disagree, partly disagree, strongly disagree.**

131) **Please provide your reasons, particularly if you disagree.**

We note that the objectives box is to set the context only and does not have policy weight (Short objectives are included in boxed text at the start of chapters for context only and should not be applied as either plan-making or decision-making policy). Whilst policy GB4 on defining GB boundaries, does refer to “only include[ing] land which it is necessary to keep permanently open as Green Belt”, it would be preferable for this important terminology to have policy status. We support the retention of the 5 purposes, which are largely unchanged.

The Council partly agrees and generally welcomes the reordering of text. It is appreciated that the designated of new GB land is likely to be limited. It is assumed that “long term growth ambitions” of the plan area would relate to the term of the relevant Local Plan (or relevant Masterplan/ Site Briefs) as they are subject to change. However, it is noted that land may be safeguarded under GB 4 1 g.

132) Do you agree policy GB2 gives sufficient detail on the expected roles spatial development strategies and local plans play in assessing Green belt land? Strongly agree, partly agree, neither agree nor disagree, *partly disagree*, strongly disagree.

The clarification of the role of the Spatial Development Strategies and the Local Plan is welcomed, including that strategic assessments cannot definitively identify grey belt. The minor additions to the wording of the PPG, now included as Annex E is also welcomed, as is its inclusion as an Annex and hence it being afforded policy weight.

Please provide your reasons, particularly if you disagree.

It is noted that in Annex E 1 a ii it is stated that assessments must be “broadly consistent with” the strategic assessment in an adopted SDS. It is quite possible that more detailed local assessments would come to different conclusions on the contribution land makes to Green Belt purposes and what constitutes grey belt. There should be sufficient flexibility to allow this to be the case and for local context to be considered. Whilst the focus of such assessments is to focus on the contribution land makes to Green Belt, even if grey belt is identified it may not be required to meet need and/or the best place to do so. The developability of such land needs to consider other planning designations which may be relevant (whether Footnote 7 designations or otherwise) and other planning considerations, not least whether the land is sustainably located. It would be helpful if this were clearly set out in the NPPF as such assessments, and particularly the definition of grey belt land, is likely to be of great interest and potentially concern to communities.

Further clarification of the “fundamentally undermine test” (Annex E 1c) would be helpful with explanation of how this can be applied to individual sites for development management purposes.

The guidance retains reference to villages being excluded from the definition of towns. Villages and towns may not be consistently defined across the country. Larger villages may equate to towns. Where assessment relates to purpose B, we consider that it should be for borough assessments to determine what constitutes a town for the purposes of the assessment, and this may include larger ‘villages’.

More clarification should be provided on what constitutes a historic town in relation to Purpose D to ensure that assessments across the country use the same interpretation.

Policy now confirms that assessments are to be a routine part of plan making. Such assessments are usually carried out by consultants and are an expensive part of the evidence base. The government has provided financial support for those authorities which have been successful for this first round of assessments responding to the new policy environment. Will further resources be available going forward? Furthermore, it should be recognised that there are a limited number of consultancies with expertise in this field, whose services will be in high demand at a time when it is envisaged that plan making is to be sped up. There should be sufficient time to procure, undertake and review such assessments.

133) Do you agree with proposals to better enable development opportunities around suitable stations to be brought forward? *Strongly agree, partly agree, neither agree nor disagree, partly disagree, strongly disagree.*

a. Please provide your reasons, particularly if you disagree.

We generally support the aim of developing GB land around relevant stations. However, it should be noted that the borough is urban in nature, and GB land is not in close proximity to a station and we leave to the consideration of others as to whether this policy is warranted in more rural areas. Even if this provision were to be extended to other transport modes/ interchanges, it is unlikely that it would apply to the borough's GB parcels.

We strongly support the retention of GB3 2 and GB3 2c, which ties in with the earlier point regarding whether such sites are the best place for development even if there is an evidenced need.

134) Do you agree the expectations set out in policy GB5 are appropriate and deliverable in Local Plans? *Strongly agree, partly agree, neither agree nor disagree, partly disagree, strongly disagree.*

135) Please provide your reasons, particularly if you disagree.

We consider the policy may go beyond the scope of what planning can deliver, particularly with regard to part 1.a - securing public access. This is especially so if there are few large sites coming forward where such benefits can be secured.

It would be clearer to specify which plan (Local Plans, SDSs) is responsible for which criteria set out in the policy.

Whilst we support the introduction of provisions requiring consideration of contributions to Local Nature Recovery Strategies, we are conscious that the LNRS for London is still emerging but covers the whole city and that consideration should be given to ensuring that benefits are secured locally.

136) Do you agree policies GB6 and GB7 set out appropriate tests for considering development on Green Belt land? *Strongly agree, partly agree, neither agree nor disagree, partly disagree, **strongly disagree.***

We strongly disagree.

Whilst the Council generally supports the re-ordering of the content and some minor improvements for clarity, there are some areas about which concerns remain. We support the removal of Footnote 55 which improves clarity. The inclusion of footnote 49 (defining what is meant by original building) is a helpful addition.

It is, however, a matter of serious concern that Policy GB7 undermines protections for the Green Belt including to be even more permissive towards development where local planning authorities have an unmet need, irrespective of any harm to Green Belt that would arise. Local authorities without a 5 year housing land supply and lower HDT result may be pushed to approve speculative developments more readily in the Green Belt which is concerning. Development on Green Belt should be plan-led first to ensure the release of Green Belt is only considered as a last resort.

a. Please provide your reasons, particularly if you disagree.

GB7 1a –It would be helpful to have a definition of horticulture in the glossary and/or further clarification on application for sites where horticulture has a tourism offer.

GB7 1b – The requirement that the reuse of buildings must preserve the openness of GB and not conflict with the proposes of including land within has been removed, due to it being considered by government as unduly restrictive. Our view is that this deletion of the 3-pronged test weakens the policy approach and affords insufficient consideration of the need to protect openness. This may be particularly relevant in terms of the location of proposals and their impact on openness. A different use can have a different impact on openness which needs to be considered. A change of use can have more impact on openness than an extension or alteration.

GB7 (1e) – The Council maintains its objection to the weakening of policy with reference to the PDL exception - proposals only needing to not cause substantial harm rather than greater harm than the existing. This weakened position would appear to encourage the principle of urbanising development in the Green Belt without effective measures to assess the point at which harm to openness becomes unacceptable, particularly given the term “substantial” is so subjective.

GB7 (1f) – Changes proposed in this consultation draft NPPF also weaken GB policy. Proposals only need to have met the test of minimising impact (to varying extents), which could still result in serious impact. It may be more appropriate to use the terminology minimal, rather than minimising. Not doing so could lead to inconsistency in application.

GB7 (1g) – The policy sets out that; “the development would utilise grey belt land and would not fundamentally undermine the purposes (taken together) of the remaining Green Belt across the area of the plan”, this section should refer to any green belt study undertaken by the Local Planning Authority otherwise long negotiations could result regarding differences of opinions relating to the purposes of the surrounding green belt. It is noted that the unmet need is now referred to as ‘evidenced’ rather than ‘demonstrable’. Our preferred wording is “demonstrable” which is clearer and indicates an appropriate, higher bar.

GB7 (1h) – We generally welcome the policy which supports development around stations. However, the allowances appear to apply to both housing and mixed-use developments, yet no definition of mixed-use developments is provided. It appears deliberate that the Government has not scoped in commercial developments, yet mixed-use could theoretically mean a development of 99% commercial floorspace and a single home. This policy is unlikely to apply to Green Belt in the borough and leave to others to consider if appropriate in more rural locations.

137) Do you agree policy GB7(1h) successfully targets appropriate development types and locations in the Green Belt, including that it applies only to housing and mixed-use development capable of meeting the density requirements in chapter 12? *Strongly agree, partly agree, neither agree nor disagree, partly disagree, strongly disagree.*

Please see the Council’s response to Question 137.

138) Please provide your reasons, including any evidence that this policy would lead to adverse impacts on Gypsies and Travellers.

The proposed policy overall would support further development of Gypsy and Traveller development, as provides a clear measure to determine if there is unmet need for Gypsy and Traveller accommodation and allow greenbelt to be considered if there is not a sufficient supply of Gypsy and Traveller sites. Overall the Council consider the policy wording would not result in an adverse impact on Gypsy and Travellers

- 139) Do you agree that site-specific viability assessment should be permitted on development proposals subject to the Golden Rules in these three circumstances? *Strongly agree, partly agree, neither agree nor disagree, partly disagree, strongly disagree.***

a. Please provide your reasons, particularly if you disagree.

The Council would strongly recommend that the wording in policy GB8 is amended to say “must” or “is expected”. The current wording of “should” does not provide enough certainty that 50% affordable housing is required and creates a sense that the requirement is negotiable.

The biggest concern with allowing viability testing on Green Belt sites is that it allows for unhelpful speculation on policy costs. Where developers are successful in eroding affordable housing requirements, this will purely just increase land values, which are the very basis upon which Green Belt sites can deliver more community benefits, as the existing use value is generally very low. This low existing use value allows for a greater margin within the development to provide more affordable housing/infrastructure etc. By allowing viability testing on Green Belt and allowing lower levels of affordable housing this will inevitably start to increase the sale price of land and therefore start to erode those margins. If this is to be allowed, it needs to be carefully considered.

Overall, the Council do not support point 3c as this is far too ambiguous. This is highly subjective and it would be extremely unlikely that a development proposal on a typical Green Belt site will not resemble any of the typologies subject to viability testing. We would strongly recommend this flexibility is removed to remove unhelpful speculation. The other two points within Point 3 are not opposed in principle, albeit it is concerning that 50% affordable housing can still be automatically reviewed on multi-phased strategic sites, rather than requiring any specific justification. To limit gaming, this clause could be amended to say “For a multi-phase, strategic site, which are required to fund particularly large-scale community and/or infrastructure benefits”. It should also be stated in policy GB8 that where policy requirements on Green Belt land are not met, early, mid and late stage reviews should be included within later phases to seek to meet 50% affordable housing sitewide.

- 140) With regards to previously developed land, are there further changes to policy or guidance that could be made to help ensure site-specific viability assessments are used only for genuinely previously developed land, and not predominantly greenfield sites?**

In relation to previously developed land, this is a broadly defined within the NPPF and the Council would be concerned that certain types of land within the definition, for example car parks or large areas of hard standing, could be considered as previously developed despite not possessing the characteristic built form, contamination or land remediation requirements that a typical previously developed site evokes. Allowing affordable housing requirements to be scrutinised on land such as this, with a very low existing use, is not consistent with the aims of Green Belt policy. We would strongly recommend a tighter definition is used to clarify that for the purposes of GB8, previously developed land must be mostly built up, such as former industrial, employment or existing residential land, or be able to demonstrate considerable land remediation requirements. This would be far less ambiguous and more consistent with the aims of Green Belt and affordable housing policy.

- 141) Do you agree with setting an affordable housing ‘floor’ for schemes subject to the Golden Rules accompanied by a viability assessment subject to the terms set out? *Strongly agree, partly agree, neither agree nor disagree, partly disagree, strongly disagree.***

- 142) Please explain your answer, including your view on the appropriate approach to setting a ‘floor’, and the right level for this?**

We strongly disagree with setting an affordable housing ‘floor’, as this would provide active encouragement for developers to race to the bottom. Notwithstanding the Council’s detailed concerns,

the Government's golden rules have appeal because they at least ensure that Green Belt land delivers a premium level of affordable housing above that which would be expected in other areas. These golden rules will be rendered void, however, if a national floor is introduced as it will be this floor, and not the golden rules, that is used as the starting point for developers seeking to receive permission in the Green Belt. There is no good reason why developments in the Green Belt, where exceptionally approved, should be expected not to prioritise meeting the 50% set out in the golden rules, with any leniency on this percentage strictly limited to those scenarios set out in GB8.

It should be noted that in the previous version of the NPPF there used to be a 10% minimum measure for affordable home ownership products, which I understand was useful to many local authorities to ensure as an absolute minimum 10% affordable housing was provided regardless of the viability, and there was a lot of disappointment when this was removed from the NPPF. Therefore, possibly a minimum measure for Social Rented housing could be applied, however, this would need careful wording.

- 143) Do you agree with local planning authorities testing viability at the plan-making stage using a standardised Benchmark Land Values scenario of 10 times Existing Use Value for greenfield, Green Belt land?** *Strongly agree, partly agree, neither agree nor disagree, partly disagree, **strongly disagree**.*

a) Please explain your answer.

This proposal would be subject to challenge as it would have no realistic evidential basis. It would not be attributable to any likely scenario and would start to erode the premise that existing use value and the land in its current use should form the basis of Local Plan viability assessments. There is absolutely no information on the provenance of this figure, upon what basis was it derived and how realistic it is.

In addition, it is unclear what would stop developers from applying previously developed land at ten times the existing use value. It makes no sense to do that, as it has no clear reasoning behind the calculation. Instead, it may be better to apply a higher premium to greenfield land, on the basis that farmland is a key resource and therefore any release would require a higher premium. However, again this starts to edge into dangerous territory that this could start to be applied across other site types.

- 144) Do you have any other comments on the use of nationally standardised Benchmark Land Values for local planning authorities to test viability at the plan-making stage?**

Nationally standardised BLVs are completely inappropriate. For example agricultural land values are very different across the country on their basis of proximity to existing residential development, topography, the grade of the agricultural land etc. Applying a standardised BLV would purely erode the usefulness of the local plan viability assessment and its relevance to local policy requirements. Having strong locally derived evidence of existing use values which are used to derive the benchmark land values is far stronger and allows Local Planning Authorities to understand what policy requirements will and will not be viable in their specific area based on tangible evidence which can be illustrated clearly as part of any examination in public or as part of any appeal process. It would be far better to clearly set out the application of premium and the circumstances in which lower or higher premiums are appropriate so this can be used appropriately by Local Planning Authorities and developers.

- 145) Do you agree that proposed changes to the grey belt definition will improve the operability of the grey belt definition, without undermining the general protections given to other footnote 7 areas?** *Strongly agree, partly agree, neither agree nor disagree, partly disagree, **strongly disagree**.*

a. Please provide your reasons, particularly if you disagree.

We strongly disagree.

We do not support the removal of Footnote 7 assets and designations from the definition of grey belt. If its inclusion meant that the definition was unclear then the correct response would be for the government to fully identify (subject to consultation) those designations and assets where the footnote should apply. The additional protection it afforded was necessary as GB land is a finite resource which performs a very important planning purpose. Grey belt remains capable of being identified at the local level, following robust assessment. Even then, all land identified as grey belt is unlikely to be developable because of other planning designations and considerations. Even if a need is demonstrated, grey belt land may not be the best place to locate more development. The proposed approach to the definition of grey belt fails to understand how contentious identification of parcels of grey belt will be to communities and could result in sporadic development via the development management process.

- 146) Do you agree that policy DP1 provides sufficient clarity on how development plans should deliver high quality design and placemaking outcomes?** *Strongly agree, partly agree, neither agree nor disagree, **partly disagree**, strongly disagree.*

a. Please provide your reasons, particularly if you disagree.

The Council supports the strong emphasis placed on achieving well-designed places within the NPPF and agrees that development plans have a strong and vital role to play in setting out clear design expectations.

Whilst the individual components of a design strategy set out in DP1 are individually unobjectionable, the policy as a whole is rather vague and could be more explicit. An urban design vision for placemaking centers on creating sustainable, inclusive, and vibrant communities through high-quality, context-driven design. Whilst it is unrealistic to expect the NPPF itself to set out, in detail, how high-quality, context-driven design should be achieved, it should at least provide clear references to where this information will be provided. At a local level, the Council supports the references to producing design guides, design codes and masterplans, and the recognition of the role of design review, but considers the absence of references to the National Design Guide and the emerging Design and Placemaking Planning Practice Guidance (save for one reference in relation to design review) curious. For the avoidance of doubt, the NPPF should refer directly to how this Guide and guidance is expected to be used. The urban design vision for places needs to be a coherent strategy whereby planning and public transport decision-making processes are sufficiently long-term and aligned in order to have the desired impact.

- 147) Do you agree with the approach to design tools set out in policy DP2?** *Strongly agree, **partly agree**, neither agree nor disagree, partly disagree, strongly disagree.*

a. Please provide your reasons, particularly if you disagree.

The Council supports the additional detail provided by DP2 on how local design guides, codes and masterplans should be produced and what they should cover. The Council would however ask the Government to consider whether the introductory text to the policy appropriately promotes the use of guides, codes and masterplans. Whilst unlikely to be the Government's intention, the implication that guides, codes and masterplans should only be used "where necessary" could be used to argue that these tools should be used sparingly and by exception. It is unclear to what extent the Government considers the current use of such tools to be unnecessary and it would seem unlikely that local authorities would invest in producing these tools, in the context of sparse resource, unless they felt they were necessary. The Council considers this implication to be, in any case, unhelpful in promoting the wider objectives of the planning system in achieving high-quality places and providing certainty and therefore worthy of clarification.

148) Do you agree policy DP3 clearly set out principles for development proposals to respond to their context and create well-designed places? *Strongly agree, partly agree, neither agree nor disagree, **partly disagree**, strongly disagree.*

a. Please provide your reasons, particularly if you disagree.

The Council has no particular objection to any of the principles in isolation but has concern over the overall consistency of the NPPF with wider national guidance, which would appear to be unhelpful. For example, DP3 sets out 8 key design principles whereas the National Design Guide sets out 10 key principles, and the draft DPPP sets out 7 key principles for well-designed places. In DP3, context is the first key principle and this is given scant attention in the emerging DPPP, yet is of profound importance in understanding places. The existing spatial pattern, morphology, character, landscape, and cultural distinctiveness represents an over-riding aspect.

Whilst DP3 functions as a set of principles, it remains a series of highly subjective and not especially well-explained statements that will require interpretation by both applicants and local planning authorities. Whilst this is not problematic in principle, as it creates a clear role for local plans, design codes and design guides to provide more specific, locally-relevant and ultimately more tactile guidance, the Council does note that Policy DP1 seeks to limit the use of local guidance to areas of change, and to otherwise rely on DP3. The Council does not consider the principles within DP3 to be sufficiently instructive or clarified to allow consistent decision-making alone and would question whether the Government will achieve its objective of making the planning system more predictable if it otherwise seeks to limit the ability for local authorities to provide this predictability through local guidance.

From a public health perspective, The inclusion of Health Impact Assessments early in the design process will enhance the creation of well-designed places by embedding health, wellbeing, and equity into design decisions, supporting healthier populations and economic growth. The DP3 key principles should be aligned with the Building for a Healthy Life design code to ensure all aspects of a healthy neighbourhood are considered. As well as creating inclusive public spaces, new developments should be designed to maximise social cohesion.

The Council does however greatly support the statement within the policy that developments that are not well designed should be refused.

149) Do you agree with the proposed approach to using design review and other design processes in policy DP4? ***Strongly agree**, partly agree, neither agree nor disagree, partly disagree, strongly disagree.*

a. If not, what else would help secure better design and placemaking outcomes?

The Design Review process can also be used as part of establishing a vision for places as part of a process for major urban extensions, well before any Masterplan or development proposals have been formulated. This should involve the wider public in terms of engagement.

150) Do you agree that policy TR1 will provide an effective basis for taking a vision-led approach and supporting sustainable transport through plan-making? *Strongly agree, **partly agree**, neither agree nor disagree, partly disagree, strongly disagree.*

a. Please provide your reasons, particularly if you disagree.

The Council welcomes the Government’s intention in the drafted NPPF to strengthen the strategic role of transport connectivity in plan-making. Drafted Policy TR1 seeks to consolidate the existing position previously detailed in the existing NPPF and introduces more clarity into the key stakeholders that should be consulted as part of the early engagement and supporting sustainable patterns of movement.

The Council supports the principle of a vision-led approach that promotes early engagement and strategic transport thinking at the plan-making stage, and welcomes the government’s intention to strengthen the role of transport connectivity within Policy TR1. This approach aligns closely with the local planning priorities in LBRuT, where effective integration of land use and transport considerations is essential given the borough’s unique character and infrastructure constraints.

The Council welcome the inclusion of the Connectivity Tool in Policy TR1 part 1.b as it provides a consistent methodology for assessing site connectivity and will ensure that new development is located in areas that are well connected to key services with opportunities for sustainable transport identified. This will complement traditional transport evidence (such as PTAL and travel time analysis) and ensure development has genuine access to sustainable transport options which will help to reduce the reliance on private car use within borough, supporting the Council’s principles of Living Locally (Policy 1 of the Local Plan) and other wider strategic sustainability objectives around decarbonisation and zero emissions.

However, the Council considers that whilst the overarching direction is positive, concerns exist around the ambiguities in the wording (e.g. ‘popular places’ in part 1 and ‘significant amount of movement’ in part 2) which may limit the effectiveness in the application of the policy in practice and could reduce consistency of the application of the policy at national level.

151) Do you agree that policy TR2 strikes an appropriate balance between supporting maximum parking standards where they can deliver planning benefits, and requiring a degree of flexibility and consideration of business requirements in setting those standards? *Strongly agree, partly agree, neither agree nor disagree, partly disagree, strongly disagree.*

a. Please provide your reasons, particularly if you disagree.

The Council are supportive of the inclusion of TR2 and consider it an improvement on the existing text in the adopted NPPF (2024). Greater detail has been included which will support the creation of parking standards. The guidance included in TR2 (a-e) is in line with Richmond Local Plan Policy 48 Vehicular Parking Standards, Cycle Parking, Servicing and Construction Logistics Management which is in general conformity with London Plan Policies T5 and T6.1 – T6.5 and Tables 10.2 – 10.6. TR2 will establish a clear foundational standard for parking which will improve the transport environment.

TR2 also is in keeping with the Objectives of the Local Plan to support ‘reducing the need to travel and improving the choices for more sustainable travel.’

TR2(1) states that “development plans should set local planning standards for residential and non-residential development.” It would be helpful for more information to be provided which estates more precisely the roles of the Strategic Development Strategy and the Local Plan in setting these standards for the Development Plan. Does one have priority over the others? How specific and local can the standards set by in the Strategic Development Strategy be? Are the situations where the Local Plan can overrule the Strategic Development Strategy?

152) Do you agree with the changes proposed in policy TR3(1a), including the reference to proposals which could generate a significant amount of movement, and the proposed use of the Connectivity Tool? *Strongly agree, partly agree, neither agree nor disagree, partly disagree, strongly disagree.*

a. Please provide your reasons, particularly if you disagree.

The Council are generally supportive of the changes proposed in policy TR3(1a) with regards to reference to proposals which could general a significant amount of movement, and the proposed use of the Connectivity Tool.

Where there is some uncertainty is to TR3 (1d) where included at the start of the clause is “in rural areas”. This isn’t part of paragraph 109e of the adopted NPPF. No clear justification for this inclusion has been provided and the Council feel it should be removed to ensure the requirements of TR3 (1d) apply to all areas, not just rural ones.

153) Do you agree that proposed policy TR4 provides a sufficient basis for the effective integration of transport considerations in creating well-designed places? *Strongly agree, partly agree, neither agree nor disagree, partly disagree, strongly disagree.*

a. Please provide your reasons, particularly if you disagree.

The Council strongly agrees that the proposed Policy TR4 in the drafted NPPF provides sufficient basis for the effective integration of transport considerations in creating well-designed places. Policy TR4 appropriately recognises that transport and movement are integral to the quality, sustainability and accessibility of development, and it reinforces the need for transport considerations to be considered from the outset of a proposal.

The Council considers the policy aligns well with the borough’s Local Plan strategic objectives, which promote high-quality design, sustainable transport and active travel alongside protecting local character and environment quality. The emphasis on safe, inclusive and attractive streets, together with the approach to access and parking supports the boroughs approach to delivering development that is both well connected and sensitive to its surroundings.

The Council welcomes the policies principle-based approach which provides a clear national framework while allowing for appropriate local discretion in its application. This flexibility is essential within LBRuT where transport and design solutions must respond to a diverse range of contexts that reflects local circumstances, infrastructure capacity and place-specific objectives.

Overall, the Council considers that policy TR4 offers a clear and proportionate national policy framework that supports locally-led decision-making and will assist in delivering accessible, sustainable and well-design places, consistent with the borough’s Local Plan and wider place-making ambitions.

154) Do you agree with policy TR5 as a basis for supporting the provision and retention of roadside facilities where there is an identified need? *Strongly agree, partly agree, neither agree nor disagree, partly disagree, strongly disagree.*

a. Please provide your reasons, particularly if you disagree.

The Council agrees that Policy TR5 provides an appropriate and effective basis for supporting the provision and retention of roadside facilities where there is an identified need. The policy recognises the role that roadside facilities can play in supporting the safe and efficient operation of the transport

network, while ensuring that their provision is appropriately considered against potential impacts and other local policy requirements.

The Council notes that the policy is specifically focused on roadside facilities outside settlements, where planning considerations and operational needs differ from those within built up areas. In LBRuT, there is limited amount of land outside settlements, so Policy TR5 is unlikely to be applied widely within the borough. Nonetheless, the Council considers that the policy provides a clear and proportionate framework for assessing identified need, while allowing local planning authorities to exercise local discretion when considering the suitability and location of facilities.

The Council welcomes the emphasis on facilities being evidence-led and proportionate, reflecting local patterns of movement, transport demand and operational requirements. This aligns with the borough's Local Plan objectives to support sustainable transport and highway safety, while protecting residential amenity, environmental quality and the character of local areas.

- 155) Do you agree that the amended wording proposed in policy TR6 provides a clearer basis for considering when transport assessments and travel plans will be required, and for considering impacts on the transport network?** *Strongly agree, partly agree, neither agree nor disagree, partly disagree, strongly disagree.*

a. Please provide your reasons, particularly if you disagree.

The Council agrees that the proposed changes will be helpful when considering when transport assessment and travel plans will be required, and for considering the impacts on the transport network.

There is uncertainty in the new policy where it references in TR6(3) 'severe adverse impact'. Is there a methodology for categorising severe or is it left to the discretion of each Council to decide?

- 156) Do you agree the proposed text in policy TR7 provide an effective basis for assessing proposals for marine ports, airports and general aviation facilities?** *Strongly agree, partly agree, neither agree nor disagree, partly disagree, strongly disagree.*

a. Please provide your reasons, particularly if you disagree.

The Council partly agrees with the proposed text in Policy TR7 provides an effective basis for assessing proposals for marine ports, airports and general aviation facilities. The Council welcomes the inclusion of TR7 in the drafted NPPF which consolidates and updates relevant elements of the existing framework and provides a more comprehensive policy direction for assessing such infrastructure proposals, including the modernisation, transition to low-carbon fuels and environmental effects in relation to proposals associated with these types of infrastructure.

Richmond is located in close proximity to Heathrow Airport and therefore any development of the airport should carefully be considered with regard to the impacts of the development on the local community, including but not limited to aircraft noise, air quality and climate emissions. The Council actively opposes any future expansion proposals of Heathrow that would exacerbate these impacts. The Council's opposition to airport expansion and support for mitigation measures is reflected in corporate policy and previous representations on Heathrow-related consultations.

While Policy TR7 principles are generally welcomes, particularly the emphasis on requiring acceptable environmental effects. The Council, however, consider that further clarity is needed on how key

environmental issues (such as noise, air quality and carbon emissions) are to be assessed and balanced against development benefits. Clearer guidance on assessment threshold or criteria, particularly for proposals with cross-boundary impacts (such as those associated with airport operations and changes) would help to ensure consistent and effective application of the policy in practice.

157) Do you agree with the additional policy on maintaining and improving rights of way proposed in policy TR8? *Strongly agree, partly agree, neither agree nor disagree, partly disagree, strongly disagree.*

a. Please provide your reasons, particularly if you disagree.

The Council strongly supports the inclusion of a dedicated policy on maintaining and improving public rights of way within the drafted NPPF (Policy TR8). Public Rights of Way are an essential part of the Borough's transport, recreation, health and environmental infrastructure, and the inclusion of Policy TR8 provides clarity on how to assess proposals which impact Rights of Way and emphasises their importance.

Policy TR8 appropriately reflects the strategic role of Rights of Way in supporting sustainable development, active travel and access to open space and closely aligns with the Borough's Corporate Policies and adopted Local Plan which places a strong emphasis on green infrastructure, connectivity and the creation of healthy, inclusive and resilient communities.

158) Do you agree with the approach to planning for healthy communities in policy HC1, including the expectation that the development plan set local standards for different types of recreational land, drawing upon relevant national standards? *Strongly agree, partly agree, neither agree nor disagree, partly disagree, strongly disagree.*

a) Please provide your reasons, particularly if you disagree.

The Council partly agrees with the approach to planning for healthy communities set out in Policy HC1 of the draft NPPF. The Council supports the overarching objective of creating healthy, inclusive places and the emphasis on the retention and enhancement of existing community facilities, alongside the provision of new recreational and community infrastructure where required. This aligns with the Council's Local Plan policies and evidence base, which are informed by up-to-date open space, sports and recreation needs assessment, and reflect the importance of accessible, high-quality spaces in supporting the health and well-being of the local community.

To achieve the aim of healthy and inclusive places, public health should be central to planning through strategies such as conducting Health Impacts Assessments early in the design process and co-producing plans with LA public health teams.

As a general observation, proposed approaches place most of the emphasis on physical infrastructure. Greater focus should also be given to healthy placemaking and to the built and natural environments as the building blocks of health and wellbeing.

Part (c) of Policy HC1 requires Local Plans to designate Local Green Space where it is appropriate to do so, in accordance with Policy HC2. Whilst Policy HC2 includes a criterion for Local Green

Space, the current glossary (Appendix B) of the drafted NPPF does not include a specific definition for Local Green Space. The Council considers that this leads to ambiguity about the relationship between designating specific Local Green Spaces and setting local standards for recreational land more generally. It is therefore considered that a clear definition of Local Green Spaces should be included within the Glossary in Appendix B of the NPPF that aligns with drafted Policy HC2. In addition, clarification should also be provided on how Local Green Space designations relate to different typologies of recreational land and to wider local standards for open space provision.

The Council supports the requirement set out in part (d) of Policy HC1, which outlines that development plans should set local standards for different recreational land (including play areas, sports facilities, allotments and informal recreational spaces) drawing upon relevant national standards and best practice. This approach recognises that communities have diverse needs for parks, open space, allotments, sports pitch and informal recreation, and the provision of local standards will help to ensure the right provision of outdoor recreational land is provided for the needs of the local community. The Council, however, considers that further clarity on how these local standards should be defined and implemented in practice would be beneficial. The Council would also welcome additional guidance on evidence requirements.

HC1 paragraph 1e should include a reference to reducing health inequalities which is outlined in paragraph 96 of the current NPPF. Furthermore, local Joint Strategic Needs Assessments could be utilised to identify opportunities for good health.

159) Do you agree that Local Green Space should be ‘close’ to the community it serves? **Strongly agree**, *partly agree, neither agree nor disagree, partly disagree, strongly disagree.*

a. Please provide your reasons, particularly if you disagree.

The Council strongly agrees that Local Green space should be in close proximity to the community it serves. Proximity to green space directly impacts accessibility and use. Green space provides opportunities to exercise, socialise, and reduces air and noise pollution. These spaces are essential for promoting mental health, wellbeing, and community cohesion, and should be embedded in town planning for inner-urban, edge, and rural sites alike.

The proximity is fundamental to the purpose of the Local Green Space designation, as it helps to ensure that designated spaces are genuinely valued by and function for, the local community. Requiring such spaces to be close to the communities they serve helps to ensure that the designation remains genuinely local in nature and supports everyday access to green space. Supporting this, it is also considered that Local Green Spaces should be accessible to, or usable by, the community it serves.

The Council, therefore, considers more clarity on how ‘close to the community it serves’ should be provided. Additional guidance on how proximity, access and community use should be assessed in different spatial contexts, would also help to ensure consistent application while retaining appropriate flexibility for local circumstances.

Local public health authorities should also be supported in implementing NICE Guidance NG90 on physical activity and the environment. This includes ensuring the provision and maintenance of adequate green spaces and community facilities within local areas (benches, toilets, etc) and improving transport accessibility.

Overall, the Council supports the principle that Local Green Space should be close to the community it serves, provided that the policy allows for sufficient flexibility to reflect the local geography, settlement patterns and the specific ways in which communities use and value local green spaces.

160) Do you agree that the proposed policies at HC3 and HC4 will support the provision of community facilities and public service infrastructure serving new development? **Strongly agree**, partly agree, neither agree nor disagree, partly disagree, strongly disagree.

a) Please provide your reasons, particularly if you disagree.

The Council strongly agrees that the proposed Policies HC3 and HC4 will support the provision of community facilities and public service infrastructure to serve new development.

The Council welcomes the clear recognition within these policies of ensuring that new development is supported by the provision of timely, accessible and appropriate community facilities and public service infrastructure. The emphasis on retaining and enhancing existing facilities, alongside providing new infrastructure where needed, aligns with the Council's Local Plan approach and existing evidence base for community and sports and leisure provision.

The Council outline the expected contributions in our Planning Obligations Supplementary Planning Document (SPD). Contributions through Community Infrastructure Levy payments are crucial for the planning and delivery of community infrastructure. It is the Council's assumption that the NPPF is attempting to require CIL payments, however, the proposed [London Emergency Housing Package](#) proposes to remove borough CIL payments, which is contradictory to this national policy. The Council opposes the loss of CIL contributions which will directly impact the provision of community facilities and public service infrastructure in our borough.

In addition, whilst the policies appropriately emphasise the need for infrastructure to support growth, clearer guidance is needed on how infrastructure needs should be evidenced (including viability) and prioritised. This would help ensure that consistency and deliverability of such infrastructure is achieved, particularly where there is competing demands for land and funding.

161) Do you have any views on whether further clarity is required to improve the application of this policy, including the term 'fast food outlets', and the types of uses to which it applies?

Yes. The council considers that further clarity would be beneficial to improve the consistency and effective application of this policy.

In particular, it is considered the use of the term 'reasonable walking distance' introduces a level of subjectivity that may lead to inconsistent interpretation and decision-making across different local planning authorities. What constitutes as a reasonable walking distance is likely to vary depending on a range of factors, including the age of children/young people, levels of independence, mobility and accessibility needs, and the characteristics of the surrounding area. Greater clarity would also be helpful on the methodology for measuring the distance, including whether measurements should be taken from the entrance of the fast food outlet as a starting point.

The Council has adopted, evidence-based approach through the Local Plan Policy 51 part B3, which resists proposals for new fast food takeaways within 400 metres of the boundaries of a primary or secondary school. This reflects London Plan Policy E9, and provides clarity, certainty and consistency for applicants, decision makers and local communities. The Council considers that the national policy should allow local planning authorities to define appropriate distances within their local plans, informed by local evidence, context and strategic policy frameworks.

The Council also has concerns regarding the wording of part 1(a) of Policy HC5, particularly with the inclusion of the phrase “unless the location is within a designated town centre”. This exception risks significant reducing the effectiveness of the policy in more urban areas, including parts of London, where many schools are located within or adjacent to town centres and where concentrations of fast food outlets are already highest.

Further clarity is also required in relation to Policy HC5 part 1(b), particularly regarding responsibilities for providing data and assessments relating to impacts on healthy, pollution and anti-social behaviour. As drafted, the policy is unclear as to whether this burden falls on the applicant or the local planning authority, and whether the necessary evidence is readily available. Without clarification, there is a risk of placing an unreasonable evidential burden on local planning authorities.

In addition, greater clarity would be welcomed on the definition of ‘fast food outlets’, recognising that not all such uses operate in the same way or have the same public health impacts. Clearer differentiation would support more proportionate and effective decision making.

The Council considers that additional Planning Practice Guidance would be beneficial to support the consistent interpretation and implementation of this policy, particularly in relation to distance measurement, evidence requirements and use classifications.

162) Do you agree with the proposed approach to retaining key community facilities and public service infrastructure in policy HC6? *Strongly agree, partly agree, neither agree nor disagree, **partly disagree**, strongly disagree.*

a. Please provide your reasons, particularly if you disagree.

The Council supports the overall intent of drafted Policy HC6 and welcomes the emphasis in parts (1a) and (1b) of the policy on retaining and protecting key community facilities and public service infrastructure, and the definition of key community facilities in part (2). The Council agrees that such facilities play a vital role in supporting sustainable, inclusive and healthy communities.

However, the Council has concerns regarding the proposed limitation of protection to circumstances where a facility would be the ‘last of its type in the area’. This test is not clearly defined and risks significantly weakening the protection of valued community facilities that continue to serve an important local function, even where similar facilities exist elsewhere. In many cases, the loss of a facility can have a substantial adverse impact on accessibility, convenience and community cohesion, particularly where alternative provision is not within a walkable distance.

The meaning of ‘its type’ is undefined. Given the list of types of facilities in the preceding sentence, the policy could be interpreted as meaning that, for example, any place of worship should be considered interchangeably, regardless of religion, or that any health facility should be considered interchangeably, regardless of whether it is private or public, generalist or specialist.

Likewise the meaning of ‘area concerned’ is undefined. This approach conflicts with the Council’s adopted Local Plan Policy 20 which protects essential shops and services unless there is genuinely an accessible alternative provision within 400 metres. The use of the phrase ‘area concerned’ is highly subjective and, in the absence of a meaningful definition, is guaranteed to lead to arbitrary, self-serving areas being put forward at the application stage in order to ensure other same-type facilities are scoped in.

For these reasons, the ‘last of its type’ threshold would limit the Council’s ability to apply this established and locally appropriate policy approach and could lead to the incremental erosion of community infrastructure over time, contrary to objectives of Policy HC6.

The provisions within HC6 also appear to imply that a single facility in an area will always be sufficient in capacity to address the needs of the area. Notwithstanding the fact 'area' is not defined, as above, this is an unsubstantiated and highly unlikely assumption. The sustainability and vitality of any neighbourhood will depend on there being a range of shops and facilities available to cater for a diversity of needs. However, the retention of this range is not guaranteed simply because of this dependence. The need to protect community facilities is a reflection of the fact that the level of need in an area will not always be addressed through the market; in other words, the loss of community facilities can often arise not because they are not needed by the people who live there but simply because, as a use of a building, they generate less of a return than alternative land uses, including residential.

The Council also has specific concerns regarding the proposed marketing period of 12 months for pubs. This is shorter than the two-year period required by the Council's adopted policies and may not be appropriate in high value areas such as Richmond. The Council considers that local planning authorities should retain discretion to determine an appropriate marketing period based on local market conditions and circumstances.

In addition, the wording of part 1(a), including the bracketing text, appears to apply specifically to shops and pubs. This creates ambiguity as to whether different types of community facilities are subject to different marketing requirements, and if so, on what basis. Greater clarity would be welcomed to ensure consistent and effective application of the policy.

Overall, while the Council supports the objectives of Policy HC6, it considers that the policy would be strengthened by removing the 'last of its type' limitation, allowing greater local discretion on marketing periods, and clarifying how the policy applies across different types of community facilities.

- 163) Do you agree with the approach taken to recreational facilities in policy HC7, including the addition of 'and/or' with reference to quantity and quality of replacement provision?**
*Strongly agree, partly agree, neither agree nor disagree, **partly disagree**, strongly disagree.*

a. Please provide your reasons, particularly if you disagree.

The Council supports the overarching objective of drafted Policy HC7 to protect recreational facilities, and welcomes the intention to secure appropriate replacement provision where the loss of such facilities is proposed.

However, the Council has concerns that aspects of the revised policy weakens the protection of recreational facilities against other development outcomes and this may lead to the incremental erosion of recreational facilities over time, particularly in dense boroughs where opportunities for new provisions are limited and existing facilities are under pressure. Key concerns are included below.

Firstly, the introduction of 'quantity and/or quality' test risks reducing the overall level of protection. This would allow losses to be justified on the basis of qualitative improvements alone which may result in a net reduction in recreational provision. This is considered to be undesirable where there are areas with planned population growth or increased housing density, as improvements in quality cannot adequately compensate for a loss in quantity, as both capacity and accessibility are essential to meeting existing and future demands.

Secondly, the Council also notes the draft policy no longer includes the clear requirement, previously set out in paragraph 103 in the adopted NPPF which requires planning policies and decisions to be informed by 'robust and up-to-date assessments of need for open space, sports and recreational facilities'. The removal of this requirement risks weakening the evidence base supporting plan-making and decision-making which could lead to inconsistent outcomes when considering the provision of recreational for existing and future demands.

Finally, the Council also raise concern that the revised wording departs from the established approach detailed in paragraph 104 of the adopted NPPF which states that existing open space, sports and recreational buildings and land “*should not be built on unless*” specific criteria are met. The newly drafted Policy HC7 does not bring forward this wording rather refers to development proposals not “*resulting in a loss*” of such facilities, is less precise and is considered to weaken the clarity and strength of protection. This approach would be more subjective and is open to interpretation in relation to partial loss, reconfiguration or reduced functionality, and could lead to a piecemeal erosion of recreational facilities over time.

Taken together, the Council considers these changes could undermine the long-term protection of recreational facilities and reduce the ability for local planning authorities to protect and retain recreational facilities.

164) Do you agree with the clarification that Local Green Space should not fall into areas regarded as grey belt or where Green Belt policy on previously developed land apply? *Strongly agree, partly agree, neither agree nor disagree, partly disagree, strongly disagree.*

a. Please provide your reasons, particularly if you disagree.

The Council notes this approach is consistent with the intent of existing national policy, including paragraph 108 of the adopted NPPF, and welcomes the clarification provided in Policy HC8 regarding the relationship between Local Green Space, grey belt and Green Belt policy relating to previously developed land (PDL).

The Council considers it is important the Local Green Space designation remains a distinct designation that is intended to protect green areas of particular importance to local communities. Clarifying that Local Green Space should not be applied to areas regarded grey belt, or where Green Belt policy on PDL applies, helps to avoid confusion and reinforces the purpose and integrity of the designation.

165) Do you agree with policy P1 as a basis for identifying and addressing relevant risks when preparing plans? *Strongly agree, partly agree, neither agree nor disagree, partly disagree, strongly disagree.*

a. Please provide your reasons, particularly if you disagree.

The Council broadly supports the principles of drafted Policy P1 and supports national policy in providing a clear basis for identifying and addressing relevant environmental and health risks through plan-making. It is noted that drafted Policy P1 follows a risk-informed approach at the plan making stage which is important to ensure that development is directed appropriately, that constraints are understood early on, and that sustainable development and safe places are delivered.

However, the Council considers that drafted Policy P1 would benefit from greater clarity regarding how it should be applied in practice, particular in relation to local plan evidence and proportionality. The borough already prepares and maintains a comprehensive evidence base addressing key issues affecting the borough such as, flood risk, air quality, land contamination, environmental quality, Green Belt and Metropolitan Open Land constraints, and public health considerations. These matters are addressed within the current Local Plan and supporting technical studies. It is therefore considered that Policy P1 should explicitly recognise that existing, robust and up-to-date evidence can be relied upon. Without this clarification, there is a risk that the policy is interpreted as requiring additional or duplicated assessments, creating unnecessary burdens on plan-making resources and potentially delaying local plan preparation. The Policy should also make clear that plan-making should remain

proportionate to the area it covers and that authorities are not expected to revisit or replicate evidence that has been deemed as sound previously and remains relevant.

In addition, the Council considers that sufficient flexibility should be included within the Policy to allow local planning authorities to prioritise and focus on the risks most relevant to their specific local context. Within the borough, the principal environmental and land-based risks are well understood and already addressed through local policy and evidence. Drafted Policy P1 should therefore support this locally responsive approach rather than introduce a uniform or overly prescriptive expectation that may not reflect local circumstances.

However significant sources of pollution fall outside the scope of the planning system, limiting officers ability to intervene—particularly in relation to chimney smoke and flue height. This omits to consider the health effects of PM2.5's on neighbours from smoke from the installation of wood burners with inadequate controls over separation distances and chimney heights particularly from infill developments.. This results in a misalignment of the ability of local authorities to reduce PM2.5 in line with latest national air quality objectives and WHO guidelines.

166) Are any additional tools or guidance needed to enable better decision-making on contaminated land?

Yes. The Council considers that additional tools and clearer guidance is needed to assist local planning authorities on making decision in relation to contaminated land.

Whilst the Council welcomes the overarching principle of drafted Policy P2, it is considered that there remains a lot of uncertainty around the data on contaminated land. It is noted that there are often significant variations in the availability, quality, and format of baseline data across authorities, and therefore Councils would benefit from a more comprehensive and standardised regional contaminated land baseline dataset, particularly in relation to historic land uses and typical contamination profiles associated with different land use types. A consistent, regional-wide evidence base identifying areas of potential contamination risk would improve the efficiency, reduce duplication of work across boroughs, and support greater consistency on how contaminated land issues are identified and addressed at both plan making and decision making stages.

Further clarity would also be helpful in addressing cumulative impacts and residual risks, particularly in areas affected by flood risk and long-term climate change. Consideration of contaminated land in these context requires an understanding not only of site-specific ground conditions, but also of residual risks behind flood defences, potential mobilisation of contaminants during flood events, and the implications of long-term climate change projections. National guidance could usefully provide clearer direction on how such cumulative and evolving risks should be factored into both plan-making and development management decisions.

Overall, LBRuT supports the strengthening of tools and guidance to improve decision making on contaminated land, particularly through the development of more consistent regional baseline datasets and clearer advice on addressing cumulative impacts and residual related risks. These measures would enhance consistency, efficiency and resilience in planning decisions while maintaining a proportionate risk-based approach.

167) Do you agree with the criteria set out in proposed policy P3 as a basis for securing acceptable living conditions and managing pollution? *Strongly agree, partly agree, neither agree nor disagree, partly disagree, strongly disagree.*

- a. Please provide your reasons, particularly if you disagree.**

A key structural gap lies in the relationship between national air quality objectives and the planning system. The National Planning Policy Framework (NPPF) requires planning decisions to sustain and contribute towards compliance with relevant limit values and national objectives. However, its references to air quality are relatively limited and framed primarily around compliance with **statutory limit values which are outdated** and do not help in safeguarding human health, nor support the efforts from Local Authorities to align with the 2021 WHO guidelines in the shortest period of time.

2. The NPPF does not establish a stronger forward-looking obligation for development to **actively support the achievement of more ambitious health-based standards, such as alignment with World Health Organization guidelines**, nor does it embed a clear requirement that development should be **zero-emission driven wherever feasible or that all emissions should be mitigated proportionately**.

3. It only refers to AQMAs (**not Focus Areas**), not acknowledging the existence of hotspots of concern either inside or outside of such areas nor the need to move away from concentration driven management of air quality to **emission driven approaches**.

4. This creates a disconnect between environmental ambition and development control practice. National air quality targets under the Environment Act, WHO health-based guidance, local Air Quality Action Plans and planning policy operate in parallel rather than within a consolidated statutory framework. As a result, air quality considerations may be addressed reactively rather than being systematically integrated into land use planning, infrastructure funding and economic decision-making from the outset.

To improve policy coherence, there is a clear need for **a consolidated planning statutory framework that integrates** air quality objectives, target values, LAs and London's WHO long term objectives (as supported by the Mayor's London Plan S11 targets for PM2.5) with planning and development policy within the NPPF - this is the only way to appropriately safeguard human health as there is not a safe level of exposure especially for PM, which has no lower limit. **NPPF should acknowledge this**. Such a framework would move beyond a narrow focus on limit value compliance and instead require development to **quantitatively** demonstrate how it contributes to improving air quality outcomes **by reducing emissions** at source (clean by design) and supporting the delivery of local Air Quality Action Plans. Embedding emissions' mitigation via using Defra's damage cost approach as per <https://www.gov.uk/government/publications/assess-the-impact-of-air-quality/air-quality-appraisal-damage-cost-guidance>), sustainable transport, and low- or zero-emission design as explicit planning requirements would strengthen alignment between environmental protection and growth objectives.

The Council supports the overarching objectives of drafted Policy P3 with ensuring that development is appropriate for its location, safeguards the health and quality of existing and future occupiers, and properly addresses environmental impacts such as noise, light, air, and other pollution. In broad terms, the criteria set out in drafted Policy P3 provides a reasonable framework for decision making and plan making and are consistent with the established principles set out in the current NPPF.

However, it is considered that while the examples are helpful illustrations of issues that maybe relevant in part 2(a) of the policy, this should not be prescriptive or exhaustive. The policy should clearly allow local context to determine which issues are most pertinent and not unintentionally raise expectations of what can definitely be achieved as this depends on a number of factors based on the development proposal and locality. The Council suggests that these examples are removed or rephrased to reflect that local circumstances and evidence can guide application.

In addition, it is also considered that the wording in parts 1(b), 1(c), 2(c) and 2(d) appears ambiguous and susceptible to subjective interpretation (i.e. the use of 'acceptable', 'unacceptable', 'significant observed adverse effects') This could lead to inconsistent implementation of the policy across local areas and potentially increase the opportunity for appeal and/or disputes. The Council considers that

paragraph 198 of the current NPPF provides a clear, tested framework for considering noise and light pollution in plan-making and decision-making by referencing established statutory and regulatory frameworks that will support evidence based decisions. It is recommended that a similar approach is adopted in the forthcoming NPPF instead.

The Council welcomes the inclusion of part 3 of the Policy to clarify the relationship between planning and other environmental regimes, however it is considered it should be reworded to be more consistent with paragraph 201 of the current NPPF to reflect more clearly the distinction between land-use considerations (planning) and pollution control/permitting regimes (polluting control authorities) (i.e. the focus on Policy P3 is whether development proposals coming forward are acceptable use of the land, taking in environmental impacts, while assuming the other regulatory regimes (e.g. permitting for emissions) will operate effectively).

As a general observation, the Council notes that failure to comply with P3, and thus failure to achieve a healthy living standard, or development that gives rise to unacceptable levels of daylight, sunlight or pollution, is not expressed as a circumstance where permission should be refused. This is relevant when considering the requirements of Policy S4. The implication could be taken that developments with unhealthy living standards or which give rise to unacceptable impacts are unlikely to result in “adverse effects substantially outweighing benefits” which would appear to be an irrational conclusion. The Council strongly considers that an additional clause should be added to P3 which clarifies that developments that do not achieve an acceptable living standard or which give rise to unacceptable impacts, should be refused.

168) Do you agree policy P4 makes sufficiently clear how decision-makers should apply the agent of change principle? *Strongly agree, partly agree, neither agree nor disagree, partly disagree, strongly disagree.*

a. Please provide your reasons, particularly if you disagree.

The Council welcomes the strengthened emphasis on the ‘agent of change’ principle and supports its continued prominence in national policy. The clearer emphasis given to the principle in drafted Policy P4, and the expanded detail in part 2(a) is welcomed.

However, while the intent of drafted Policy P4 is supported, the Council considers that further clarification would assist decision makers in applying the principle consistently and proportionately in evolving urban environments. The current drafting assumes a relatively linear scenario where a new sensitive use is introduced alongside an established existing use. It provides less clarity on situations where neighbouring developments are both evolving, intensifying or being redeveloped and it is unclear which proposal should be regarded as the ‘agent of change’. Additional guidance on how decision makers should approach concurrent applications, phased redevelopment, or mutual intensification would improve certainty and reduce potential disputes.

Similarly, redevelopment scenarios can also present complicated application of the ‘agent of change’ principle. Where an existing site is redeveloped and involves the replacement, intensification or reconfiguration of established uses, it can be difficult to determine the appropriate baseline and therefore who should reasonably bear mitigation responsibility. Clearer guidance on how to define the ‘existing’ or ‘established’ use for the purposes of applying the principle (including how to treat extant permissions, lawful in inactive uses, or authorised but not fully implemented activities) would be beneficial.

Within the context of LBRuT, the principle is particularly relevant in areas where residential neighbourhoods interface with designated industrial land, railway/transport corridors, town centre uses and established cultural or community venues. The borough has significant stock of existing residential areas in close proximity to employment and service uses, meaning that changes often occur within already sensitive environments. While Policy P4 appropriately supports the continued

operation of established users, additional clarity on evidencing would assist implementation, including what form of technical assessment is expected, how baseline conditions should be established and how cumulative impacts, viability, and deliverability should be considered.

- 169) Do you agree policy P5 provides sufficient basis for addressing possible malicious threats and other hazards when considering development proposals? Strongly agree, partly agree, neither agree nor disagree, partly disagree, strongly disagree.**

The Council recognises the importance of ensuring that development proposals properly consider potential malicious threats and other safety related hazards, particularly in an evolving national security context, and therefore, the inclusion of drafted Policy P5 is supported in principle. However, from a LBRuT perspective, the Council does not consider that Policy P5 currently provides sufficient clarity on how decision-makers are expected to apply the policy in practice.

LBRuT does not have any planned hazardous installations/malicious threat developments proposed and therefore it is considered here would be limited application of the policy with the borough. However, it is recognised that the borough does contain existing nationally and regionally significant assets (most notably Twickenham Stadium), that can be associated with such threats. The risks associated, however, with large scale events and crowd management at venues such as Twickenham stadium are already addressed through well-established parallel regulatory regimes, including licensing, safety advisory groups, event management planning and police-led security assessments. These regimes operate alongside planning and often provide more detailed and specialist oversight of operational safety matters, including crowd control, stewarding, transport management and public order considerations.

In this context, therefore, it is unclear how drafted Policy P5 is intended to operate in relation to such existing frameworks. There is a risk that the policy could inadvertently extend planning decision-making beyond its proper land-use remit and into areas more appropriately addressed through licensing, policing, counter terrorism advice, or other specialist regulatory functions. The policy would benefit from clearer wording to confirm that planning should focus on land-use implications and physical design measures, while relying on specialist agencies to assess operational and security risks.

In addition, it is also considered that the policy as currently drafted is unclear on how local planning authorities are expected to obtain or assess the necessary evidence. It is unclear whether assessments are intended to be applicant-led, whether consultation with the police or counter-terrorism advisors are expected in all relevant cases, and against what criteria planning officers should judge adequacy. Planning Officers do not have specialist expertise in security risk assessment, and without clear guidance there is a risk of inconsistent interpretation and decision making.

- 170) Do you agree that substantial weight should be given to the benefits of development for defence and public protection purposes? Partly Agree**

a. Please provide your reasons, particularly if you disagree.

The Council agrees that development supporting defence and public protection serves an important national function and it is appropriate for the planning system to give significant weight to its public benefits.

However, development of this nature is unlikely to arise frequently within the borough, which is predominately residential and characterised by extensive designated open space (including Green

Belt and Metropolitan Open Land) as well as other environmental and heritage protections. The practical implications of drafted Policy P6 are therefore expected to be limited.

The Council considers the policy should only be applied in a balanced and proportionate manner to ensure that the designation of 'substantial weight' does not override necessary site-specific considerations. The Council would be particularly keen to ensure that Policy P6 is genuinely restricted to development which is needed to maintain and enhance defence capability and public safety, and not simply routine development being brought forward by the agencies responsible for defence and public safety, where the weight in favour of them does not justify substantial status by default. This is particularly important given the increasing pressure on public sector agencies to release vacant land for housing development and other uses.

- 171) Do you agree with the proposed changes set out in policy F3 to improve how Coastal Change Management Areas are identified and taken into account in development plans?**
Neither agree nor disagree

Please provide your reasons, particularly if you disagree.

It is noted that Policy F3 (1) makes reference to Integrated Coastal Zone Management should be pursued across local authority and land/sea boundaries. LBRuT would suggest that a similar cross-boundary approach should be reflected in Policy F1 and F2 in recognition of the fact that in order to fully assess flood risk and plan for flood risk management/mitigation the most robust and effective approach is to take a cross-boundary approach.

Flood risk does not respect administrative boundaries, particularly along major river corridors such as the Thames. From a regional flood and coastal risk management perspective, greater consistency in how local planning authorities apply flood risk policy is important to ensure that decisions made in one authority do not increase risk elsewhere or compromise the delivery of strategic flood management infrastructure. The NPPF therefore has an important role in providing a clear and consistent policy framework that supports coordinated spatial planning across catchments and river corridors.

Strategic Flood Risk Assessments should also be used to support cross-boundary planning and ensure that opportunities for flood storage, natural flood management and strategic flood infrastructure are identified and safeguarded consistently across neighbouring authorities.

LBRuT would draw attention to the London Plan 2021 which includes a 'Thames Policy Area' designation for the whole of the tidal Thames within the Greater London Authority area and encourages the development of Joint Strategies. In addition, LBRuT has experience of working with partners in the development of a place-based approach to managing/mitigating flood risk which reflects the requirements set out in the Environment Agency's Thames Estuary 2100 Plan Riverside Strategy Approach.

- 172) Do you agree with the proposed clarifications to the sequential test set out in policy F5?**
Partly agree

Please provide your reasons, particularly if you disagree.

The Council welcomes clearer guidance on how the Sequential Test should be applied, as this helps ensure decisions are more consistent and evidence-based across all local authorities. The clearer wording on when the Sequential Test applies, the definition of the search area, and the strengthened evidential requirements will improve decision making. This is particularly important in Richmond as most of our flood-risk issues relate to the Thames and surface-water flooding; clearer national guidance supports better plan-making and aligns with the wider NPPF aim of improving clarity in flood-risk policy. It would be useful to have clearer guidance on what the 'appropriate search area' is especially for Richmond where realistic alternatives outside of Flood Zones may be extremely limited. In addition, further clearer thresholds on what 'proportionate' applications means for smaller-scale or infill developments.

- 173) Do you agree with the proposed approach to the exception test set out in policy F6?**
Partly agree

Please provide your reasons, particularly if you disagree

The Council supports the clearer wording on when the Exception Test should be applied because better national guidance helps ensure consistent decision-making for areas affected by flood risk. In Richmond, the main issues relate to tidal and fluvial flooding from the Thames and local surface-water risk, so having a more structured and transparent approach to the Exception Test will help ensure development is only supported where it can be made safe and does not increase risk elsewhere. The clarified policy is a useful improvement, though further guidance would help applicants understand how to evidence wider sustainability benefits in smaller suburban or riverside contexts like Richmond.

- 174) Do you agree with the proposed requirement in policy F8 for sustainable drainage systems to be designed in accordance with the National Standards? Strongly agree**

Please provide your reasons, particularly if you disagree.

The Council agrees with requiring SuDS to be designed in accordance with the National Standards, as this supports a more consistent and evidence-based approach to managing surface-water flood risk. In Richmond, much of the flood risk arises from the Thames and from localised surface-water issues, so clearer national requirements will help ensure that new development incorporates robust drainage solutions. The wider NPPF reforms emphasise a stronger, more coherent framework for flood-risk management and drainage, which aligns well with the need for high-quality SuDS that deliver long-term resilience.

- 175) Do you agree with the proposed new policy to avoid the enclosure of watercourses, and encourage the de-culverting and re-naturalisation of river channels? *Partly agrees***

Please provide your reasons, particularly if you disagree.

The Council agrees with the proposed policy as avoiding the enclosure of watercourses and encouraging de-culverting and re-naturalisation supports flood-risk mitigation, improves biodiversity, and enhances the character of river corridors. Although Richmond does not have large culverted rivers, the borough benefits from an extensive network of tributaries feeding into the Thames and from habitats that are strengthened by more naturalised watercourses. The approach aligns well with our

wider aims for climate resilience, ecological enhancement and high-quality green and blue infrastructure.

176) **Do you agree with the proposed changes to policy for managing development in areas affected by coastal change? *Neither agree nor disagree***

a. Please provide your reasons, particularly if you disagree.

Richmond is not a coastal authority and does not experience coastal erosion, so the detailed policy changes would not apply directly to our borough. However, we recognise that clearer national guidance on managing coastal change will support more consistent and risk-based planning for those areas that are affected, which aligns with the wider NPPF aim of strengthening climate-risk evidence and improving the clarity of flood- and hazard-related policies

177) **The National Coastal Erosion Risk Map sets out where areas may be vulnerable to coastal change based on different scenarios. Do you have views on how these scenarios should be applied to ensure a proportionate approach in applying this policy?**

For inland authorities like Richmond, national guidance should make clear that NCERM scenarios are not required, except where cross-boundary issues arise. Ensuring that the scenarios are targeted and risk-led will support the wider NPPF aim of clearer, evidence-based climate-risk planning without creating unnecessary burden for areas that do not experience coastal change.

178) **Do you agree with the proposed new additions to Table 2: Flood Risk Vulnerability Classifications? *Strongly agree, partly agree, neither agree nor disagree, partly disagree, strongly disagree.* Partly agree**

Should any other forms of development should be added? Please give your reasoning and clearly identify which proposed or additional uses you are referring to.

The Council broadly supports the additions but for renewable energy infrastructure there could be value in more types being added, rather than just solar farms and wind turbines, such as river source heat pumps and ground source heat loops.

In addition, the table covers hazardous and non-hazardous waste but there should be more forms of development added regarding circular economy facilities such as: material recovery and battery recycling.

179) **Do you agree that the proposed approach to planning for the natural environment in policy N1, including the proposed approach to biodiversity net gain, strikes the right balance between consistency, viability, deliverability, and supporting nature recovery? Partly agree,**

a. Please provide your reasons, particularly if you disagree.

There is a need to recognise the locally specific ecological priorities especially those relating to the Thames corridor and Richmond Park which is of international importance. Also important is the

connectivity between sites, those which are designated and those which are not, as all (including private garden land) make a contribution to enhancing biodiversity. It would help if there was extra guidance on resourcing and long-term management between BNG and other requirements such as SuDs and Climate adaptation. N1 says development plans should safeguard and enhance the natural environment, but it isn't a clear requirement i.e. "must" as opposed to "should". Additionally, as mentioned above, there is no clear guidance/expectations to assist with the recommendations. Welcome point d, but has concerns regarding additionality alongside BNG. Para 2 excludes a blanket increase to BNG above 10% for an LPA, except in relation to Site Allocations. However, it is considered that the policy should not prevent an uplift above the 20% figure, if justified by local circumstances. Given that the borough consists of either large areas that are protected space or built-up residential development, the remaining ecological network throughout the borough is reliant on private gardens and smaller spaces including hedgerows and tree lines, which cumulatively create corridors and 'stepping stones' – with a close relationship between habitat quality and species survival. Due to the urban nature of the borough, many of the sites coming forward for development are on previously developed land. Planning applications coming forward in the borough have demonstrated that 20% is achievable on PDL. There are no large greenfield sites foreseen in the borough's future delivery pipeline. Hence, policy should not be inflexible.

It would help if there was extra guidance on resourcing and long-term management between BNG and other requirements such as SuDs and Climate adaptation.

From a biodiversity perspective, it is very encouraging to see that Policy N1 is relatively strong and direct in prioritising ecological considerations at the plan-making stage. The increased emphasis on strengthening ecological networks beyond site boundaries is particularly welcome. Whereas the 2024 chapter focused primarily on protecting the natural environment and mitigating harm, the 2025 chapter reframes the policy around proactive nature recovery, strategic ecological planning, and alignment with national environmental targets. Within N1, there is a clear emphasis on habitat restoration and enhancement, nature-based solutions, recovery of priority habitats and species, and strengthening ecological networks at both local and landscape/catchment scales. The stronger direction to steer development towards less environmentally sensitive land is also encouraging. Overall, the revised chapter demonstrates a much stronger sense of strategic, big-picture thinking, embedding nature recovery within wider landscape-scale planning rather than treating it as an isolated site-level consideration.

180) In what circumstances would it be reasonable to seek more than 10% biodiversity net gain on sites being allocated in the development plan, especially where this could support meeting biodiversity net gain obligations on other neighbouring sites in a particular area?

Please see answer to Question 179 above.

With regard to whether higher BNG on one site could help meet obligations on neighbouring sites, it is difficult to comment without more detail on how this mechanism would operate. In theory, a development delivering more than 10% BNG could register the additional units as a receptor site and sell those units to other developers.

181) Do you agree policy N2 sets sufficiently clear expectations for how development proposals should consider and enhance the existing natural characteristics of sites proposed for development? Partly agree

a. Please provide your reasons, particularly if you disagree.

Much of the policy is welcomed. The policy could be strengthened by having clearer expectations around site specific ecological appraisal, early engagement with applicants considering constraints, and long-term management of retained and enhance natural features given Richmond's sensitive environmental context – including for example the Thames corridor, Special Areas of Conservation, SSSIs, Local Nature Reserves, and open land designations including Metropolitan Open Land (covering more than half the borough).

Policy N2 focuses on decision making at the planning application stage and sets out clear expectations for what individual development proposals must deliver. The revised NPPF provides a comprehensive approach to protecting and enhancing biodiversity, clearly outlining how development should contribute positively to the natural environment and support nature's recovery. This includes requiring developers to assess the environmental qualities of the land using up to date data, consider land with lower value habitats for development where appropriate, strengthen wider ecological networks, retain and enhance existing natural features, integrate green infrastructure and nature based solutions, and minimise biodiversity impacts – particularly through features that support priority or threatened species.

Particularly encouraging is the emphasis on designing schemes and management strategies that ensure the long term success of green infrastructure. Crucially, Policy N2 also preserves the ability to refuse planning permission where significant biodiversity harm cannot be avoided, mitigated or compensated.

- 182) Do you agree the policy in Policy N4 provides a sufficiently clear basis for considering development proposals affecting protected landscapes and reflecting the statutory duties which apply to them? Partly agree**

Please provide your reasons, including how policy can be improved to ensure compliance.

The Council supports the intention behind Policy P4 and welcomes the recognition given to protected landscapes. However, the statutory duty to conserve and enhance landscape character needs to be expressed more explicitly in the policy wording. As drafted, N4 risks being interpreted as advisory rather than setting a clear expectation for decision-makers. Also clarification that enhancements should be actively sought, not just harm avoided,

- 183) Do you agree policy N6 provides clarity on the treatment of internationally, nationally and locally recognised site within the planning system? partly agree**

Please provide your reasons, particularly if you disagree.

The policy reduces local discretion by limiting the ability of authorities to strengthen protections beyond national policy, which is a concern in a borough with highly sensitive environments such as the Thames corridor, Richmond and Bushy Parks, Ham Lands, and Kew Gardens. Recent changes to the draft NPPF also restrict the circumstances in which more than 10% biodiversity net gain can be required, limiting the borough's capacity to secure enhancements appropriate to these landscapes (see above). Policy N6 would benefit from clearer expectations around assessing impacts on setting, cumulative effects and ecological networks, which are particularly important in Richmond's complex landscape context. Strengthening the policy in these areas would help ensure statutory duties are fully met and that designated sites and their settings receive the level of protection they require.

184) Are there any further issues for planning policy that we need to consider as we take forward the implementation of Environmental Delivery Plans?

Whilst Environmental Delivery Plans (EDPs) will initially apply only to great crested newts and nutrients, the proposal to expand them to species such as bats is highly concerning.

For example, there remains very limited understanding of how different bat species use the built and natural environment across London. Although distribution data exists, there is very little evidence on how individual species move through urban areas, where they roost, or how they rely on specific buildings. A blanket approach that removes the requirement for site specific roost assessments risks causing significant long term harm to bat populations in England.

Bats are highly site specific, with many species relying on particular buildings or structures for roosting. Unlike newts, which can sometimes be relocated to newly created ponds, the loss of a bat roost cannot be effectively compensated through generalised habitat improvements elsewhere. Their ecology is also complex: different roosts are needed at different times of year and for different life stages, alongside a network of spaces for commuting, feeding and socialising—often spread widely across an urban landscape, with often complex interactions between different bat species over the use of these spaces.

Because of this complexity, and our limited understanding of bat behaviour in London, case studies and further consultation are essential before any expansion of EDPs is considered.

185) Do you agree the government should implement the additional regard duties under Section 102 of the Levelling-Up and Regeneration Act? *Partly agrees*

Please provide your reasons.

The Council supports the principle of introducing the additional regard duties under Section 102, as strengthening the focus on levelling-up outcomes is broadly positive. At present, the only designated heritage assets which are statutorily protected are listed buildings and conservation areas. However, World Heritage Sites are of the highest significance, and the lack of statutory protection does not reflect their international importance. Similarly, many registered parks and gardens, particularly those at grade I and II* are of comparable if not of greater significance to some listed buildings. Therefore, giving statutory protection these equally important designated heritage assets is welcomed in principle as it reflects their national and, in terms of World Heritage Sites, international importance. However, it is important that greater clarity is provided regarding how these duties will operate in practice and how they will sit alongside the existing statutory duties for listed buildings and conservation areas. For example, it will also be important to understand how they will operate where there are multi-layered designated heritage assets. Several sites in Richmond feature a Registered Park and Garden and a Conservation Area which include the highly significant Richmond Park and in the case of, Kew Gardens, also a World Heritage Site. The Council therefore partly agrees and would welcome clearer expectations and supporting guidance before implementation to avoid creating ambiguity in the exercising of these regard duties.

185) Do you have any evidence as to the impact of implementing the additional regard duties for development?

No response required.

- 186) Do you agree with the approach to plan-making for the historic environment, including the specific requirements for World Heritage Sites and Conservation Areas, set out in policies H1 – H3? *partly agree***

a) Please provide your reasons, particularly if you disagree.

The Council agrees with the general thrust of the approach to plan-making which seeks to support the conservation, enhancement and enjoyment of the historic environment. However, we note that the requirements of development plans under proposed policy HE1 is to be altered. This now seeks for the development plan to be informed by a proportionate heritage assessment in addition to the consideration of the wider social, cultural and economic and environmental benefits from conservation of heritage assets. Whilst it is appreciated that there could be benefits to producing Borough wide Heritage Assessments which identify character and significance, to inform the development plan, this could involve substantial work implications on Local Authorities and it is not clear of the extent of detail and content that would be required to meet this policy. Heritage Assessments by their name can be wide ranging in terms of extent and level of detail. It is not clear is this is required to just cover significance of the historic environment or also include impact assessments. In addition, it is considered that Conservation Area Appraisals and/or Borough-Wide Urban Design Studies could fulfil this policy requirement, but this is currently unclear with the policy wording. The Council would therefore strongly welcome guidance and much greater clarity in terms of expectations regarding extent of detail needed for this new evidence base before the policy is implemented. This should include clarity on the relevance of existing evidence base that could fulfil this requirement such as Conservation Area Appraisals.

The Council welcomes the reference to the preparation of a local list of non-designated heritage assets in HE1. However, it is considered that the chapter in general should highlight that fact that non-designated heritage assets could be identified through the pre-application and application process.

- 188) Do you agree with the approach to assessing the effects of development on heritage assets set out in policy H5? *Strongly agree***

a) Please provide your reasons, particularly if you disagree.

The layout and thrust of policy HE5 are strongly agreed. In particular, the separation of substantial harm and total loss of significance of a heritage asset is supported as this makes clear that substantial harm does not always result in total loss of significance. The policy introduces the concept of substantial harm as 'seriously affecting a key element of the asset's significance' which is currently set out in the National Planning Policy Guidance. This inclusion in the policy is supported as it provides greater strength and clarity on what is defined as 'substantial harm'

- 189) Do you agree with the approach to considering impacts on designated heritage assets in policy HE6, including the change from "great weight" to "substantial weight", and in particular the interactions between this and the statutory duties? *Partly agree***

Please provide your reasons, particularly if you disagree.

The Council supports the general intention of policy HE6 and this broadly follows the current requirements of current NPPF. Changing the terminology from 'great weight' to 'substantial weight' is strongly agreed as the wording aligns with other elements of the NPPF and is considered to increase the weight and importance of the impacts on designated heritage assets in line with the statutory duties of the 1990 Act.

The removal of the concept of 'less than substantial harm' is also supported as this has caused confusion in terms of what it represents. Changing this to just 'harm' is much clearer as it will encompass

all elements of harm from negligible to high levels of harm. However, it has always been important during the application process and indeed in public inquiries that the level of harm should be articulated but there is no established process of articulating this. We would therefore welcome clear guidance on how to identify and articulate levels of harm outside of the substantial bracket.

Under policy HE6.1. it should be made clear that only development proposals which a positive effect and **do not cause any harm** should be approved. Some proposals can have both positive and harmful effects, and these would not apply to this element of the policy but fall under part 2.

190) Do you agree with the new policies in relation to world heritage, conservation areas and archaeological assets in policies HE8 – HE10? *partly agree*

Please provide your reasons, particularly if you disagree.

The Council agrees with the general thrust of the policies HE8-HE10 and strongly agrees with introducing separate policies for World Heritage Sites and Conservation Areas. These reflect the particular importance of these designated heritage assets. It is however considered that the wording of policy HE8 is not strong enough to protect the OUV of World Heritage Sites. For example, the wording of pay 'particular regard' to the significance and attributes of OUV is considered rather ambiguous and not strong enough. This should be strengthened to ensure that the OUV is protected wherever possible.

Under policy HE9. Part 3, it is considered that this should be clearer that only proposals which preserve positive contribution elements and those which better reveal significance, and **do not cause any harm** should be approved. As stated above, proposals can have positive and harmful elements. The policy needs to be explicitly clear that only proposals which cause **no harm** should be approved in line with the statutory duty of the 1990 Act.

191) Do you have any other comments on the revisions to the heritage chapter?

No response required.

192) Do you agree with the transitional arrangements approach to decision-making? *Strongly agree, partly agree, neither agree nor disagree, partly disagree, **strongly disagree.***

a. Please provide your reasons, particularly if you disagree.

The Council has serious concerns over the proposal that development plan policies which are inconsistent with national decision-making policies should be given very limited weight (except where they have been examined and adopted against the new version of the NPPF). The Council's concerns arise for a number of reasons:

- It introduces unhelpful conflict with the legal basis for decision-making set out in the Planning and Compulsory Purchase Act which requires decisions to be made in accordance with the development plan unless material considerations indicate otherwise. Whilst previous NPPFs have defined circumstances where national policy should take primacy over the development plan, this was always on a logical basis that the development plan was out of date or was otherwise failing to address national policy priorities, and that therefore an alternative material consideration (i.e. the NPPF) should override it to maintain effective decision-making. The proposal in this version of the NPPF that development plans that are entirely up-to-date and well performing should routinely be overridden by the NPPF does not have that same logic and appears inconsistent with the legal basis for decision-making.

- The NPPF routinely overriding development plans will undermine local and community confidence in the planning system. Development plans involve a transparent process including meaningful public engagement and opportunities to participate in shaping the final version of the plan. There is a financial, resource and evidential burden on local authorities to demonstrate the development plan is sound and robust, which is tested through an independent examination process. The final product is meant to give certainty as to how an area will develop aligned to a clear vision and set of objectives. The NPPF has no meaningful opportunities for public engagement or direct involvement and is required to pass no evidential tests. The proposal in the new NPPF to routinely override development plans undermines the role of development plans and militates against public engagement or investment of resource if the outcome of that process will be routinely given limited weight in decision-making. It also renders visions and objectives largely meaningless if up-to-date and well-performing local plans lose power to restrict development which undermines them.
- The national decision-making policies are necessarily high level and do not address local circumstances. This means that nuances within development plan policies, which have been tested as part of the examination of local plans, to address local circumstances are at risk of automatically falling away despite there remaining a strong justification for their inclusion. At best this will lead to more inconsistent decision-making where local authorities are required to exercise planning judgement on whether non-adherence to the local policy would lead to acceptable development and at worst will lead to poor quality outcomes where decisions on nuanced matters are made against poorly fitting and vague national policies
- The term “inconsistent in any way” is not well defined. The inclusion of “in any way” at a plain reading could be taken to mean policies that are simply expressed in a different way or which are consistent with the objectives of a national policy but contain additional, but otherwise justified, criteria should be given limited weight. Likewise some development plan policies will address multiple matters which are only partly covered by a national policy, particularly on thematic issues such as the natural or historic environments. The test of inconsistency could be interpreted as meaning that where one part of a development plan policy is inconsistent with a national policy, all parts of the policy, not just those which are inconsistent, should be given limited weight. This is incoherent and unhelpful. Whilst the consultation document seeks to clarify that the practical meaning is where there is tension between a development plan policy and national policy, this is bizarrely not expressed in the NPPF itself.

The Council strongly considers that the development plan should be given primacy over the NPPF, in line with the legal basis for decision-making, at least for a minimum period over which new development plans can be introduced, or with greater emphasis on the extent to which the development plan is up to date being determinative on weighting. This would help to avoid the issues above, including to avoid only recent adopted Local Plans, such as the Council’s from becoming partly unenforceable.

If this clause was to remain, the Council considers that, at the very least, the phrase “in any way” should be removed or clarified to make it clear that it is only where there is tension between particular requirements in national and development plan policies that the development plan policy should be given limited weight, and that other forms of inconsistency, such as simple differences in expression or the inclusion of additional, but otherwise justified, criteria does not automatically create tension.

193) Do you have any further thoughts on the policies outlined in this consultation?

No

194) Do you agree with the list of Written Ministerial Statements set out in Annex A to the draft Framework whose planning content would be superseded by the policies proposed in this consultation? *Strongly agree, partly agree, neither agree nor disagree, partly disagree, strongly disagree.*

a) Please provide your reasons, particularly if you disagree.

Notwithstanding comments it has made against relevant questions which raise concerns over proposals to maintain the positions set out in certain past Written Ministerial Statements (WMS), the Council supports the principle of incorporating WMS within the NPPF, as it considers it unhelpful for expressions of national policy to be provided in standalone documents.

195) Do you consider the planning regime, including reforms being delivered through the Planning and Infrastructure Act, provide sufficient flexibility for energy generation projects co-located with data centres to be consented under either the NSIP or TCPA regime? *Strongly agree, partly agree, neither agree nor disagree, partly disagree, strongly disagree.*

Partly agree.

a. Please give reasons.

The Council broadly supports the principle of such infrastructure being capable of being dealt with flexibly under the NSIP or TCPA regime, subject to safeguards to ensure schemes cannot utilise either regime with the intention of circumventing or undermining local priorities and policies. Whichever regime is determined as being most appropriate in relation to a particular development, it remains imperative that local authorities remain empowered to ensure that local needs and priorities are given significant weight in any process. The policy guidance accompanying the new legislation will be important.

196) Would raising the Planning Act 2008 energy generation thresholds for renewable projects that are co-located with data centres in England (for the reason outlined above) be beneficial? *Yes/No*

a. If so, what do you believe would be the appropriate threshold? Please provide your reasons.

No comment.

197) Do you have any views on how we should define 'co-located energy infrastructure'? Please provide your reasons.

No comment.

198) Do you think the renewable energy generation thresholds under Section 15 of the Planning Act 2008 for other use types of projects should be increased, or should this be limited to projects co-located with data centres? *Yes/No*

a. Please provide your reasons.

No comment.

199) What benefits or risks do you foresee from making this change? Please provide your reasons.

No comment.

200) Would you support the use of growth testing for strategic, multi-phase schemes? Strongly agree, partly agree, neither agree nor disagree, partly disagree, strongly disagree.

Growth testing is useful as part of sensitivity testing and for gaining an understanding of the impact of potential future growth on development viability. Longer term growth is, however, very difficult to predict, ending in circular arguments (as seen in a number of recent appeals including the Stag Brewery APP/L5810/W/24/3339060 and APP/L5810/W/24/3339062). While growth assumptions can be useful to inform decision making, especially on longer term projects, they should not be used as justification for a refusal, or to artificially increase policy obligations which could undermine the timely commencement of schemes. This is where review mechanisms are key. Clearer guidance is needed within the PPG on how review mechanisms should be used. This is especially relevant if the use of the site has changed (whilst the defined use class remains the same), such as schemes sold differently from that modelled as part of the planning application. For example, officers have seen scenarios during late stage reviews where large blocks of flats that were permitted on the basis of open market sale, with relevant assumptions applied in relation to open market sale (i.e. profits, sales periods, finance, etc), have been sold in bulk to a company for use as PRS (Private Rented Sector). As a result, the viability at the application stage was drastically different from the viability at the review stage, albeit the use class of the homes had not changed. This has resulted in a far worse viability position during the review, as the review mechanism was effectively comparing open market sale to build to rent, meaning the comparison was not done on a like-for-like basis. Additional guidance is required to help support LPAs as part of this process to ensure review mechanisms are useful and demonstrate the real viability of the site. This would be more useful in the long term rather than growth testing at the planning application stage.

201) Would you support the optional use of growth testing for regeneration schemes? Strongly agree, partly agree, neither agree nor disagree, partly disagree, strongly disagree.

Regeneration often takes place over a longer period of time, especially if it involves demolition of existing units that require placing households in different properties. As highlighted in the answer to question 200, longer term growth assumptions can be inaccurate. Due to this, growth testing remains a useful measure to inform decision making; however, it should not be a material consideration as part of the wider planning balance.

202) Do you agree greater specificity, including single figures, which local planning authorities could choose to diverge from where there is evidence for doing so, would improve speed and certainty? Strongly agree, partly agree, neither agree nor disagree, partly disagree, strongly disagree.

- a. **Please explain your answer. If you agree, the government welcomes views on the appropriate figure – for example, whether 17.5% would be an appropriate reflection of the industry standard for most market-led development.**

A range of figures works better because this allows the Council to account for changes in the economy over time and provides sufficient flexibility to consider site specifics. If a single figure is used, it would be very difficult for LPAs to diverge from it, especially in an appeal situation. Furthermore, if some Councils regularly diverge from the single figure while others do not, then this could set a difficult precedent. Generally, 17.5% is the figure that the Council applies. It is useful to be able to flex this if needed, especially for conversions of listed buildings which often carry a higher risk or by applying a lower figure for schemes which have fewer constraints or a carry a lower risk.

The PPG needs to have clearer wording which states that different profit levels reflect different levels of risk. The PPG should also state that the profit level applied in viability assessments should reduce as the level of risk associated with the scheme reduces. There is a further issue with the relationship between grant and risk, as grant applications are often submitted after the planning permission is determined, which then reduces the risk of the development but would not be reflected as part of any viability testing at the planning application stage. As a result, the current model where grant is considered after the application process makes it difficult to include this as part of the considerations determining risk.

- 203) Are there any site types, tenures, or development models to which alternative, lower figures to 15-20% of Gross Development Value might reasonably apply?**

- a. **Please explain your answer. The government is particularly interested in views on whether clarifying an appropriate profit of 6% on Gross Development Value for affordable housing tenures would make viability assessments more transparent and speed up decision-making.**

Yes, the Council has applied a lower figure than 15% on Built-to-Rent, co-living (and other shared living), and Purpose-Built Student Accommodation schemes. The Council has considered a 12.5% on Gross Development Value a suitable return to developers in some schemes where the income from the development would be predictable and consistent and therefore the level of risk associated with the sale of units would not have to be factored into the assessment.

The Council usually applies a 6% return for affordable housing. Generally, the Council has no issues with the applying a 6% profit on affordable housing schemes, as this assumption is usually very rarely questioned. It could be beneficial to clarify this in the NPPF or PPG.

- 204) Are there further ways the government can bring greater specificity and certainty over profit expectations across landowners, site promoters and developers such that the system provides for the level of profit necessary for development to proceed, reducing the need for subjective expectations?**

- a. **Please explain your answer.**

It would be useful to have further clarity on examples of evidence that can inform the assumptions in relation to developer profit and the premium for landowners. Further clarity should also be provided on marketing and legal costs, finance costs, as well as build costs.

Marketing costs can sometimes amount to millions of pounds for some larger schemes which is completely unrealistic. Similarly, more evidence is needed to justify how the value of legal costs is determined in viability assessments. Although these costs may seem less significant, added together,

especially for larger schemes, they can amount to considerable costs that can have a significant impact on development viability in assessments.

The government should also provide greater clarity on finance costs, which represent a significant component of development appraisal inputs. Based on the Council's experience, finance costs should not be modelled on the basis of 100% debt funding. In practice, no funder would provide 100% loan-to-cost financing for a development scheme, just as no mortgage lender would offer 100% loan-to-value borrowing for a private residential purchase in current market conditions. It should be noted that some developers may not borrow at all to fund development or may borrow only a small amount. This means if developers use a 17.5% profit figure and include a 7.5% finance rate on costs (which is generally considered acceptable at this point in time), the overall profit on the scheme would technically amount to 25%. While this level of profit would not be considered acceptable, there are currently no means for the Council to challenge this. There is also very little evidence available to justify a lower interest rate for finance costs, especially in an appeal. Equally, if smaller developers include a 10% finance rate on costs, it is very difficult to collate evidence to push back on this figure. The PPG should provide instructions on how the Bank of England base rate could be used in viability assessments. If 100% of the development costs are not being financed through debt, the finance cost figure should be lower to account for the unfinanced investment from the developer. To support this evidence, the government could carry out their own assessment to justify the proposed finance cost assumptions. More work needs to be done to evidence these assumptions, and the government should use evidence of borrowing across the sector to justify any figures or ranges of figures applied to finance costs.

Finally, developers have currently no incentives to seek savings on build costs. Instead, developers are incentivised to add additional costs to build costs to inflate development costs. Historically many viability assessments used BCIS as a benchmark and applicants were required to justify why their values were higher than BCIS. Recently, there has been a considerable move towards the provision of full build cost plans as part of viability assessments. To ensure these are realistic and accurate, the Council needs to request a qualified quantity surveyor to review these. This adds a further complex step to viability assessments. LPAs do not currently have a policy mechanism to assess the need for certain additional build cost items which can have a significant impact on the viability of a scheme.. There is a useful sentence within the emerging London Plan Viability guidance which states:

"Schemes should exclude elements that do not make a positive contribution to viability unless these are required for other planning reasons, for example, the provision of community facilities. Schemes should not include elements with significant costs that have a negative impact on viability, such as basements, unless there is a planning reason to do so. It may also be necessary to test different residential typologies, such as build to rent (BtR) and build for sale".

A similar sentence should be added to the PPG to allow LPAs to challenge certain items within the build cost plan which have a negative impact on viability.

205) Existing Viability Planning Practice Guidance refers to developer return in terms a percentage of gross development value. In what ways might the continued use of gross development value be usefully standardised?

It is important to ensure that the Gross Development Value encompasses all forms of income from the development, such as income from retail and commercial space. The PPG could be clearer what sources of evidence are appropriate to use to determine yields for residential and commercial rental properties where the GDV is based on capitalised rental values. The government should ensure that

the evidence on yields is produced by impartial parties and not compiled by the private development sector alone.

The PPG should also provide clearer guidance on how the value of different affordable housing products should be determined. This could include requesting local authorities to publish open registers of affordable housing purchase prices, as these transactions are currently not included in the Land Registry.

206) Do you agree there circumstances in which metrics other than profit on gross development value would support more or faster housing delivery, or help to maximise compliance with plan policy? *Strongly agree, partly agree, neither agree nor disagree, partly disagree, **strongly disagree**.*

a. Please explain your answer.

While other metrics such as Internal Rate of Return or Return on Capital Employed can be useful to inform decision making, then profit on GDV should remain as the main metric used in viability assessments. It is important to note that profit on GDV is not used to determine policy compliance, instead financial viability assessment compare the Benchmark Land Value to the Residual Land Value to determine policy compliance when the cost of all the policy obligations has been included. Viability assessments are technical and detailed by their very nature to maximise the public benefits from a planning application. Using other metrics could be detrimental to the long-term supply of affordable homes, especially given that land is a finite resource and releasing land for development should maximise the delivery of public benefits, which is a key part of the planning balance.

It would be very helpful to have further guidance on Internal Rate of Return or Return on Capital Employed, as these metrics are increasingly being used by developers and their consultants, yet there is very little guidance regarding this for Councils. This is necessary to provide consistency and help LPAs consider the appropriate levels of IRR/CE alongside profit on GDV.

207) Are there types of development on which metrics other than profit on gross development value should be routinely accepted as a measure of return e.g. strategic sites large multi-phased schemes, or build to rent schemes?

a. Please explain your answer.

As stated in the answer to question 206, while other metrics can be used to cross-check the viability of a scheme, profit on GDV should remain the main metric as it is universally used and easier to understand. This is especially important in circumstances when planning applications go to committee and officers have to present the viability of a scheme. The PPG should simply allow applicants to cross-check the profit on GDV with other metrics such as IRR/CE and provide reasonable parameters for how these alternative metrics could be considered.

208) Do you agree that guidance should be updated to reflect the fact a premium may not be required in all circumstances? ***Strongly agree**, partly agree, neither agree nor disagree, partly disagree, strongly disagree.*

a. In what circumstances might a premium, or the usual premium, not be required?

A premium is often not required on contaminated land or land which currently does not have a defined use, further clarify on this within the PPG would help support a consistent approach to the application of premiums and manage land owner expectations of the value of lower quality land which would require less incentive for release.

b. What impact (if any) would you foresee if this change were made?

Specifying when LPAs should not apply premiums would help eliminate hope value from garden land or land that has no specific use where it is not possible to attribute a specific level of income to the land. By removing hope value, BLV would be kept at a realistic level which would improve the viability of schemes.

The Council has seen situations where properties with large gardens that have been sold on the basis of the plot being used to build additional homes, or where an existing bungalow (or similar) has been knocked down to build multiple properties. In these cases, the applicant seeks to use the market value of the bungalow to determine the BLV, however, due to the size of plot there would be a considerable level of hope value attributed to the market value. It would be useful if the PPG could provide additional clarity on this point.

209) Do you agree that extant consents should not be assumed to be sufficient proof of alternative use value, unless other provisions relating to set out in plans are met? *Strongly agree, partly agree, neither agree nor disagree, partly disagree, strongly disagree.*

a. Please explain your answer.

The Council has also seen examples of developers seeking planning permission for a scheme just to increase the BLV. Extant consents alone should not be assumed to be sufficient proof of AUV. Stricter guidance is needed on the types of evidence LPAs can request as to why an applicant has not pursued the extant consent. While AUV can be a useful measure to help determine BLV in a limited number of circumstances, it is generally difficult for the Council to prove that a developer could build out the extant consent. More specific guidance should therefore be provided when AUV could not be used to determine BLV, i.e. when an extant consent is more viable than the new proposed scheme. In these circumstances the viability assessment should rely on Existing Use Value to determine the BLV.

It may also be useful to set a limit on the number of planning applications that can be put forward on one site, similar to the controls on S106a (i.e. it can only be amended at discretion of the LPA less than 5 years prior to the completion of the S106). This would stop applicants continually putting in new applications on the same site to increase land value. There could be a rule that states that new full applications can be submitted either once the current permission has lapsed or at the discretion of the LPA. S106 amendments and S73 applications could still be used to make amendments.

210) If extant consents were not to be assumed as sufficient proof of alternative use value, should this be at the discretion of the decision-maker, or should another metric (e.g. period of time since consent granted) be used? *Decision maker discretion / Another metric / Neither*

a. If another metric, please set out your preferred approach and rationale.

One option would be to set strict evidence requirements for developers in cases where the extant permission is less than 3 years old and the permitted scheme is either highly viable or far more viable than the new proposed scheme. In these circumstances, the applicant should demonstrate why they are not taking the permitted scheme forward with robust evidence. The PPG should set out clear

requirements for this evidence. AUV should carry less weight in decision making the more recent the extant consent. If the extant consent was not policy compliant, then AUV should not be used.

211) What further steps should the government take to ensure non-policy compliant schemes are not used to inform the determination of benchmark land values in the viability assessments that underpin plan-making?

Overall, the wording in the PPG has been useful to help prevent this and the Council has not had any recent experiences of applicants trying to determine BLV with data on price paid for land. The wording of the PPG should continue being clear that the use of market evidence to determine BLV is not acceptable under any circumstances to limit any precedents for this provision under exceptional circumstances.

212) Do you agree that the residual land value of the development proposal should be cross-checked with the residual land values of comparable schemes; to help set the viability assessment in context. Strongly agree, partly agree, neither agree nor disagree, partly disagree, strongly disagree.

a. Please explain your answer.

Historically the PPG allowed decision-makers to question the deliverability of schemes which were highly unviable by cross referencing the definition of deliverable sites in the NPPF. This was removed from the PPG, which from the perspective of the Council represented a move in the wrong direction. The PPG needs to allow decision-makers to question very negative RLVs, as these sites should not be considered deliverable and should therefore not be permitted. This is where growth assumptions could be considered to allow decision-makers to use growth scenarios as evidence of deliverability, as long as they can be re-tested during review mechanisms.

In situations where the deficit is larger than the combined BLV and developer profit, the developer should not be realistically able to cover the cost of the deficit and the scheme would be in negative equity. In these situations, if the applicant still takes the scheme forward, there is clearly evidence that the developer has not shared with the Council. If the scheme is highly unviable with a deficit greater than the BLV and developer profit, the PPG should allow decision-makers to consider the site as undeliverable and it should not be permitted, unless growth scenarios are applied alongside realistic phasing assumptions which show the site has a good chance of delivery in the future.

213) Do you agree that a 2.5 hectare threshold is appropriate? Strongly agree, partly agree, neither agree nor disagree, partly disagree, strongly disagree.

a. Please provide your reasons, particularly if you disagree.

The Council has no significant concerns over the 2.5 hectare threshold provided that it is used a secondary test alongside a primary unit-based threshold (e.g. 10-49 units) to safeguard against forms of development which are not large in terms of units but still take up a large area. The Council notes, however, that a 49 unit development across 2.5 hectares would only be at a density of around 20 dwellings per hectare which is particularly low density for most parts of the country.

Nevertheless, the wording within the proposal indicates that this would be the case and is supported. The Council would not support a medium site size threshold which used either a unit or area based threshold, given that it is possible in some cases that a 2.5 hectare site in some locations could

accommodate very high density development, resulting in developments of 100+ units which could not possibly be considered “medium sized”.

214) Do you agree that a unit threshold of between 10 and 49 units is appropriate? Strongly agree, partly agree, neither agree nor disagree, partly disagree, strongly disagree.

a. Please provide your reasons, particularly if you disagree.

The Council's previous consultation response indicated that, in many areas, 10 to 49 units would remain a small form of development and that a broader range of 10 to 99 units might be more appropriate for medium sites. Local experience suggests that development schemes that come forward within the borough that exceed 100 units mark a transition point where more complex layouts, infrastructure coordination, and detailed technical assessments are typically required due to the increase in scale.

However, whilst the Council considers expansion to a 99 unit upper limit might be justified in an objective sense, given the Council has some concerns over the intended uses of these thresholds the Council reserves judgement on whether this expansion is justified in the context of its intended use cases.

215) Do you foresee risks or operability issues anticipated with the proposed definition of medium development? Yes/No.

216) If so, please explain you answer and provide views on potential mitigations.

The use of any threshold for defining when certain policy or requirements apply can introduce perverse incentives to subdivide a development to ensure each sub-divided part fits under this threshold. Whilst the consultation document recognises this risk, local authorities will need clear tests to apply to consider whether this subdivision is taking place and clear powers to act to address it.

This could include clear instructions on tests that should be applied to consider whether sub-division has occurred, including the extent to which land in the same, or connected, ownership has been brought forward separately, the extent to which land within a single site allocation is being brought forward separately without clear justification, and a clear time period within which development on adjacent parcels being brought forward is considered to represent sub-division (e.g. 2 years between last completion and first completion on adjacent sites).

Where sub-division is suspected, the NPPF should be clear that applications will not be eligible for flexibilities reserved for medium sites. Penalties could also be included as part of the wider build out measures for developers who have sub-divided sites.

217) Do you have any views on whether the current small development exemption should be extended to cover a wider range of sites – indicatively to sites of fewer than 50 dwellings, or fewer than 120 bedspaces in purpose-built student accommodation?

a. Please provide your reasons.

As set out in the Council's response to the previous consultation, the Council recognises the importance of the Building Safety Levy in supporting enhanced building safety requirements. However, it is essential that its implementation takes into account the scale and nature of different types of development, noting that small-scale and low rise developments do not carry the same inherent safety risks that larger-scale or high rise developments do. There is concern that the uniform application of the levy at a flat rate,

without scaled thresholds or exemptions, may place a disproportionate financial pressure on these types of developments of SME developers.

When combining the Building Safety Levy with the existing planning obligations, such as the Community Infrastructure Levy (CIL) and Section 106 contributions, alongside the high land values associated within an inner London borough, the cumulative cost burden can significantly impact a schemes viability. This is recognised to be particularly challenging for SME developers when providing housing delivery.

In light of this, the Council would support the consideration of exemptions or adjusted thresholds for Building Safety Levy for small and medium sized schemes, to avoid unintended barriers to housing delivery and to ensure the levy is implemented in a fair and proportionate manner. It has no specific view on what these thresholds should be but considers they should be set at an evidence-led threshold that ensures it does not undermine building safety.

218) If the exemption were to be extended, do you have any views on whether the development of 120 purpose-built student accommodation bedspaces is an appropriate equivalent to a development of 50 dwellings for the purposes of the levy exemption?

a. Please provide your reasons.

The Council has no specific concerns over whether 120 purpose-built student bedspaces is an appropriate equivalent to 50 dwellings but notes that it is consistent with the London Plan's adjustment ratio of 2.4 bedspaces to a dwelling.

As a general observation, the Council notes that the built form of student accommodation will often be exclusively flatted and higher density, and at least within London, almost exclusively laid out in blocks. On the other hand, 50 dwellings might represent a range of built forms and densities, including fairly low rise suburban development forms. The two thresholds are therefore not directly comparable for the purposes of assessing building safety.

Likewise, the Council notes that the intention of raising the threshold for the Building Safety Levy exemption is aimed at helping SMEs primarily. The Council would question whether SMEs are routinely developing purpose-built student accommodation, which is often built and managed by a narrow range of specialist organisations.

219) If the exemption were to be extended, do you have any views on whether the exemption should be based solely on the existing metrics (dwellings/bedspaces) or whether there should also be an area threshold.

The Council has no specific comments on the appropriate metric for calculating exemptions other than to note that the purpose of any exemption threshold must be to define a level below which the relative risk does not justify the levy burden. It is reasonable to argue that an exemption for lower rise forms of development is justified and the Council considers that the number of dwellings and bedspaces is a reasonable, albeit not perfect, indicator of risk. It would question, however, whether site area alone can be used to indicate risk, considering that low-rise developments across a larger area will often be less inherently risky than a high-rise development in a small area.

220) If you do have views on possible changes to the small developments levy exemption, please specify the potential impact of the possible change of the levy exemption on people with protected characteristics as defined in section 149 of the Equality Act 2010.

The fundamental purpose of the Building Safety Levy should be to ensure that new buildings are safe and that any defects to existing buildings are remedied as soon as possible. The Council notes it is likely that people with protected characteristics may be disproportionately living in buildings with higher inherent risks, including high rise buildings. A failure to appropriately guarantee building safety and remedy any defects may therefore disproportionately affect those with protected characteristics.

The Council does not have sufficient underlying data to know whether the small developments levy exemption will have a material impact on building safety but recognises that certain forms of development, including smaller scale and low-rise development, are less inherently risky and that the burden of paying the levy for those forms of development may therefore be considered disproportionate. The Council considers that the Government should undertake its own analysis of the impacts of the exemption on the envisaged outcomes of the Building Safety Levy, including projected income and capacity, in order to consider whether the small developments exemption risks undermining any of these outcomes, and therefore the outcomes intended for those with protected characteristics.

221) What do you consider to be the potential economic, competitive, and behavioural impacts of possible changes to the levy exemption? Please provide any evidence or examples to support your response.

No response required.

222) Do you agree with the proposal to extend the Permission in Principle application route to medium development? Strongly agree, partly agree, *neither agree nor disagree*, partly disagree, strongly disagree.

a. Please provide your reasons, particularly if you disagree.

As a general observation, the Council has not observed the Permission in Principle route being an attractive option for developers locally. The Council nevertheless has no objection in principle to the extension of PIP to medium sized developments.

223) Do you have views about whether there should be changes to the regulatory procedures for these applications, including whether there should be a requirement for a short planning statement?

No response required.

224) Do you have any views on the impacts of the above proposals for you, or the group or business you represent and on anyone with a relevant protected characteristic?

a. If so, please explain who, which groups, including those with protected characteristics, or which businesses may be impacted and how.

The Council considers it highly likely that the proposals set out across this consultation will impact upon persons with a relevant protected characteristic, including on the basis of age, sex or disability, as well as those experiencing higher levels of income and other forms of deprivation. This is because the outcomes of the planning process, in relation to the availability of housing (including affordable housing), jobs, infrastructure and public spaces and the wider environment, undoubtedly impact upon life outcomes in various, interconnected ways, which are often felt most strongly or severely by those with

protected characteristics. For example, there is ample evidence that the (lack of) availability of affordable housing disproportionately impacts persons with protected characteristics, as does insufficient infrastructure and job availability.

The Council hopes that the responses it has given to the questions set out across the consultation are helpful in scoping and identifying any impacts, whether actual or theoretical, of the proposals on those with protected characteristics and to identify where changes may be required to avoid negative impacts or to improve the overall effectiveness of policy proposals. However, the Council strongly considers that the most appropriate way forward would be for the Government to prepare a comprehensive Equalities Impact Needs Assessment (EINA), supported by appropriate evidence, to identify, analyse and, where appropriate, mitigate any impacts, based on a transparent assessment that is available for public scrutiny. Without a publicly-available EINA, there is a real risk that the impact pathways of the proposals upon those with protected characteristics is excessively theoretical, incomplete or otherwise unreliable.

225) Is there anything that could be done to mitigate any impact identified?

The need for mitigation should be an output of the Equalities Impact Needs Assessment described above.