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Birmingham Friends of the Earth's response to the government consultation on Planning for the Future

Birmingham Friends of the Earth (BFOE) welcomes the opportunity to comment on the Planning for the Future consultation. We are an environmental campaign and educational organisation based in Birmingham, engaged with advancing the principles of environmental sustainability and positive environmental change.

Pillar 1 – Planning for development

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

Democratic, consideration, accountability.

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

Yes

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

All of the above, including on street notices & letters to area households & businesses.

Although it is hard to see how these proposals will make it easier for people to contribute their views to planning decisions since the reforms propose to omit or curtail a key stage of the planning process, namely when a planning application is submitted, subject to public consultation and decided by Birmingham City Council.

Birmingham City Council is the biggest local authority, thus a huge number of people will be omitted from the consultation process should these proposals go ahead.

Given the busyness of everyone's lives it seems necessary to make the availability of this information as widespread as possible across all platforms to enhance the chances of everyone being able to access the information at any given time.

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

Building sustainable, energy efficient and affordable homes for lower income people and for the homeless.

Decision making that is democratic, accountable and transparent is necessary. Communities have a right to participate in plans and decisions on planning proposals. The planning system is there to serve the public interest, not favour one sector, such as a landowner or developer over another.

Birmingham has one of the lowest proportions of green spaces per capita and suffers from illegal levels of pollution. Therefore these issues need to be addressed.

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

No, Local Plans need to take into account local circumstances and need to be able to balance competing demands, such as housing need with community facilities, protection of green space and wildlife.

To deliver new homes and other development while meeting broader objectives, such as for healthy, resilient communities, the UK net zero carbon 2050 target and protection of green space, wildlife and the natural environment, Local Plan policies must be sufficiently detailed and tailored to local circumstances, challenges and opportunities.

Categorising land in the manner the consultation paper proposes and conferring a 'permission in principle' or 'presumption in favour of development' within growth and renewal areas risks leaving only 'protected areas' with a properly functioning system of planning and development control. This is no basis for a green and fair recovery.

Zoning systems rely on detailed ordinances to work, may not be suited to the UK, and are not necessarily simpler than our present system. Moreover, such a system would take a long time to implement, as it would require a completely different regulatory regime to the one we have now.

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

No. These proposals are deeply worrying as they would take away control from local communities and the councils who serve them. Local Plan policies must be sufficiently detailed and tailored to local circumstances, challenges and opportunities if we are to meet wider aspirations and objectives, such as on climate change, the natural environment, green space, local economy and affordable housing.

The White Paper proposals for paring down the development management function and stripping planning authorities of their ability to decide development proposals (or placing restrictions on this) outside protected areas will mean local people and elected councillors who serve them will have less

say over what development can or cannot go ahead. This is anti-democratic.

Paragraph 2.15 of the consultation paper states that "We want to move to a position where all development management policies and code requirements, at national, local and neighbourhood level, are written in a machine-readable format so that wherever feasible, they can be used by digital services to automatically screen developments and help identify where they align with policies and/or code." Automatic screening is no substitute for human judgment for many planning matters which require careful consideration and appraisal and we would be concerned were such an approach to lead to the approval of schemes without the scrutiny they warrant or conversely, miss opportunities for sustainable development from say a community led scheme whose proponents may be less familiar with procedures. Birmingham's Adopted Development plan recognises that some parts of the community are not always adequately represented. The Council says it will work closely with relevant organisations that have experience in a particular matter to find the best way of consulting and liaising with these groups. An automated screening does not do the job of identifying and liaising with underrepresented parts of the local community.

What is more, Birmingham's Adopted Development plan 2031 already includes areas for growth and says that "the City Council expects that a minimum of 80% of new homes provided in the city over the plan period will be built on previously developed land". Therefore, there is nothing stopping local authorities taking government policies into account when producing local plans without taking away the democratic nature of the current system.

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

No. There is insufficient information contained within the consultation paper to answer this question. However, the consultation paper proposal for "a single statutory 'sustainable development' test to ensure plans strike the right balance between environmental, social and economic objectives" (paragraph 2.7), appears to miss the point that sustainable development is about integrating environmental, economic and social objectives, not trading them off against one another. A statutory sustainable development test aimed at ensuring this approach happens in practice would be welcome. However, this would not in our view negate the need for a Strategic Environmental Assessment of plans (or similar procedure).

With regard to the proposal to abolish the Sustainability Appraisal system and develop a simplified process for assessing the environmental impact of plans, it is essential that this fulfils the requirements of UK and international law and treaties. Local Plans and, where appropriate, Neighbourhood Plans should continue to be subject to Strategic Environmental Assessment, as now. National planning policy should undergo Strategic Environmental Assessment or a similar exercise, to ensure environmental effects are appraised and

alternatives considered and subject to public consultation.

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

Through a locally accountable, democratic, strategic planning tier. Currently this is available in Birmingham as it has an elected mayor and the local authority has planning powers.

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

No. Planning for housing is best done locally, in light of local needs and aspirations and different places' capacity to accommodate development. Areas with the greatest affordability constraints, where house prices are most expensive compared with incomes, are not necessarily the most sustainable locations to develop, yet under the proposed approach would plan for more homes than otherwise. Conversely, places with fewer 'affordability' issues may benefit from inward investment and development but be neglected under such a method.

The housing method must provide clarity over the type of homes required for different groups drawing on local evidence (for example on the need for affordable and accessible housing). The system must place greater onus on developers to contribute fairly towards meeting housing needs by removing current 'viability' and other loopholes.

We object to the housing delivery test as this unfairly penalises local authorities who cannot force developers to build on land which has planning permission. We are also concerned that the so-called presumption in favour of sustainable development in practice works more like a presumption in favour of development. For example, it has already been proposed in Birmingham's Development plan that housing be removed from the Green Belt to provide housing and greater employment. The ultimate outcome could be building on the Green Belt in favour of "sustainable development" which is counterintuitive. Both of these aspects of the planning system should be reformed so that they work to the wider public benefit, rather than the development industry, or removed entirely.

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

No. The capacity of places to accommodate sustainable development should be the primary objective. Edgbaston, for example, is designated a conservation area but it is near the city centre and house prices are high. If these were the only indicators for development then a conservation area might be lost.

Simply building more homes won't make them more 'affordable' as developers are unlikely to flood the market to a level that would make house prices fall.

The quantity of development planned for should be based upon an assessment of local need and places' capacity to accommodate development in a sustainable manner.

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

No. There should be no automatic permission granted, especially not for 'substantial development'. This requires more scrutiny of proposals, not less, so an automatic permission makes no sense.

Development proposals should continue to be decided by way of a planning application. The planning application process provides for public, democratic scrutiny. This is a prerequisite for robust, fair planning outcomes. Under an automatic permission in principle this stage would be omitted and therefore the procedure for approval would be less fair, and potentially less rigorous.

With regard to the aspiration to achieve "faster routes for detailed consent" experience suggests any such process would still require consulting statutory consultees, assimilating policy and application information and negotiation especially for the substantial development the reforms proposed for growth areas. Therefore, it is doubtful whether a noticeably streamlined system is achievable in practice without compromising the quality of developments coming forward and the community voice in planning.

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

No. The planning application process provides for public, democratic scrutiny. This is a prerequisite for robust, transparent and fair planning outcomes and should be retained. For renewal areas, a presumption in favour of development would apply and therefore it is not clear that provision for the same level of public, democratic scrutiny by way of a planning application as we have now would continue.

It is vital that this stage be retained and enhanced to ensure at least the level of scrutiny and public participation in decisions remains as under present arrangements. Without these safeguards, the procedures for approval under the reforms risk being less fair, and less rigorous.

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

No. New settlements should be seen as a last resort after all other options, such as redevelopment and urban extensions have been considered and exhausted first. Planning should remain in the hands of democratically elected authorities.

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

No. With regard to planning applications, the system must provide for sufficient information about the proposal to be forthcoming to enable a robust appraisal by the planning authority of the proposed scheme and associated impacts. The amount of information required to assess a scheme will depend on its size and complexity and impacts so it is important that in any move to

standardise documents these are taken into account. Imposing an arbitrary word limit on planning documents assumes this will address all issues, whereas for larger schemes such detail is needed due to complexity and impacts of such proposals.

Of particular concern, is the consultation paper's suggestion that detailed planning decisions be delegated to planning officers where the principle of development has been established. While it is important that planning and other specialists have oversight of / advise on detailed matters, they should inform, not decide applications (other than minor non contentious ones). Public participation and democratic scrutiny are integral to our current system and necessary in order for decisions to be fair, transparent and robust. Under the reformed system as proposed the democratic scrutiny and public participation that occurs in relation to specific planning proposals — a key plank of our current system — stand to be lost. This cannot be right.

With regard to the proposal for greater digitalisation of the application process to make it easier for applicants, it is important that any automation of the process be restricted to routine, simple elements. Computers are no substitute for human judgment, professional or otherwise, public participation and deliberation by way of a planning committee.

There is a need for better presentation of planning documents online so that these are easily searchable and findable by professional and laypersons alike.

With regard to planning conditions and suggestion that conditions be set nationally, the system must also provide for local conditions tailored to local circumstances.

We object to the proposal that applicants will be entitled to an automatic rebate of their planning application fee if they are successful at appeal. This is unfair as it will deter cash-strapped local authorities from refusing to grant permission for an application they consider to be poor. Reaching a planning decision is not always black and white and will depend on the weight to be given to different factors. Such a rebate should only be required where a council's planning decision is deemed unreasonable by an Inspector on material planning grounds.

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

Greater use of digital technologies is needed, however face-to-face communication, in person events and access to hard copy documentation also matter. In person events provide for a level of engagement and discussion that may not be achievable through digital technologies. Both types of communication are needed. Birmingham is a proudly cosmopolitan city with people from many cultures residing in close proximity to each other. It is important to reach these people in a way with which they are comfortable and with respect.

We disagree with the simplified role envisaged for Local Plans, and Neighbourhood Plans. These should continue to set out detailed policies tailored to the circumstances and opportunities of the local area.

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

Not sure. It is important that all areas have and maintain up-to-date Local Plans to guide decisions on new development. This should be achievable in a period of two and a half to three years, subject to planning departments and the Planning Inspectorate having the necessary resources to work to this swifter timescale. Given that by 2018, the national spending watchdog warned that funding for Birmingham City Council had halved since 2010, it would be unfair to impose this time constraint on our chronically underfunded local authority.

We are concerned that, under 'alternative options' the possibility of removing the 'right to be heard' is mentioned. Maintaining the right to be heard is essential if communities are to retain a meaningful influence and role in plan-making. This right enables individuals and groups to engage in person alongside other stakeholders and provides for thorough public scrutiny of policies, evidence and proposals. The deliberation and discussion that occurs at examinations in public helps foster consensus and ultimately leads to better thought out plans and policies.

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

Yes. Neighbourhood Plans have a role to play in setting local policies tailored to the needs of their neighbourhood and can foster community ownership of and engagement with planning. Given that Birmingham is the biggest local authority in the country, these specific Neighbourhood plans are important to making sure the needs of the specific area are being addressed and planned for. The role of Neighbourhood Plans should continue as now or be enhanced, not restricted in the manner the reforms propose.

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

By empowering communities to draw up Neighbourhood Plan policies that require development to be zero carbon, nature friendly and meet requirements for affordable housing, workspaces, community facilities and other land use needs, in particular community led schemes and initiatives. The design preferences of the community should be reflected in the Neighbourhood Plan where communities would like this, but so should these broader planning considerations which should continue to be integral to the Neighbourhood Plan process rather than omitted or constrained along the lines the consultation paper proposes.

14. Do you agree there should be a stronger emphasis on the build out

of developments? And if so, what further measures would you support?

Yes. Measures to address excessive landbanking are needed. Developers should be required to implement the planning permissions they already have and measures identified to achieve faster build out of developments where needed. Providing for a greater variety of building types and developers as the consultation paper proposes (Proposal 10) may help, however other measures are needed too.

Pillar 2 – Planning for beautiful and sustainable places

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

The sheer number of new builds which prioritize commuter cars seems counterproductive to succeeding in creating an effective green recovery or even meeting UK's net zero target of reducing 100% greenhouse emissions by 2050. In addition the prioritization of tarmac leads to less space for any trees or other forms of greenery.

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

All of the above. If we are to arrive at Carbon Zero by 2050 and tackle climate change and reduce biodiversity loss then all four of the above should be prioritized. If it is the mission of this strategy to overhaul the current planning system and bring with it years of restructuring then we need a strategy that centres around a strong green recovery.

Certainly Birmingham city has major issues with traffic with a very high reliance on cars. In order to match the green recovery, we require less commuter houses on the outskirts of Birmingham or a higher investment into public transport. More green and open space are certainly required in Birmingham city centre. With the exception of St. Phillips Cathedral and Eastside city 'park' there are no other green spaces in Birmingham City Centre. This not only removes the value of nature to help with promoting healthy living and the aesthetic value greenery and nature provides. There needs to be a significant increase in trees planted within the city and surrounding area to tackle issues such as climate change and reducing carbon emissions as well as creating healthier more environmentally friendly places to live.

In addition Birmingham also has a development plan to build swaths of new builds on green belts by 2031, thus removing green spaces on our outskirts further still! These commuter housing estates will again favour commuter vehicles and not establish any community based infrastructure or create jobs in the surrounding areas to reduce the need to use a car to get around.

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

Greater use of design guides and codes could potentially play a helpful role,

depending on what these contain and the extent to which development follows the guidelines set out. Such guides and codes should have sustainable design, energy efficiency and sustainable transport embedded within them, including maximum parking standards, cycle storage, charging points, et al.

Codes may have some potential to help secure better designed development, but need to be seen within the broader context of planning impacts and wider objectives such as the climate and ecological crises and need for a fair, green recovery. For example, allowing major new housing development on greenfield sites on the edge of our towns and cities makes a transition to more sustainable transport modes harder to achieve; as reliance on the private car is embedded as a necessity from the outset. This in turn leads to houses with no front gardens but parking spaces, leaving little or no room for trees, nature or greenery.

An example for these types of housing estates is a large residential estate in Selly Oak, Birmingham. All the houses have car parking spaces in front of them. This demonstrates a high reliance on private cars which inevitably leads to a higher volume of single-person cars driving into the city centre, again increasing car reliance, traffic and pollution.

It seems vague to state that where locally-produced guides and codes are absent then government produced guides will be appointed. To what degree will you involve the community, how much effort will be spent on arranging community engagement meetings and how easy will it be to pass planning permission given no involvement from the community?

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

Not sure. With regard to setting up a new body to support design coding, without further information on the nature of such a body and powers they are to be given, it is hard to answer this question.

It would be helpful for local authorities to have a chief planning officer, given the crucial role of planning in managing development and land use in the public interest (as far as the system allows). Design and place-making are fundamental to good planning outcomes. Greater emphasis needs to be placed on planning for zero carbon, resilient development and ensuring we have a planning system enabled and resourced at a local level to deliver this.

All too often plans and developments are made with the intention of providing homes but mostly to turn a profit. The inclusion of green spaces, gardens, community involvement, links to public transport, proximity to work places, schools and other community services are used as a selling tactic for families or professionals. They are only prioritized in the sense that a demographic exists in that area who favour certain amenities. All too often the developers are not appointed responsibility for building or producing housing that enables for community involvement instead favouring a private housing estate to

ensure safety within the grounds and in the process driving a sense of community out.

Assigning an officer to ensure safe and fair representation afforded to the community when coming up against housing development might be a good idea but further information on the officers level of authority is needed.

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

Yes. Measures to embed design quality and environmental standards in Homes England's activities and programmes of work would be welcome.

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

No. We believe this method of 'fast-track for beauty' is not tackling the issues of environmentally friendly designs to help deal with fuel efficiency and thus climate change. It is unclear how this will encourage innovation especially in the areas of sustainable development and promoting house designs that are environmentally friendly, progressive models that are pioneering the ability to build homes with material sourced in as close to carbon neutral as possible. Sustainability should be at the forefront of this consultation. The notion of fast tracking previously popular designs seems a quick solution to providing more homes for the current demand but is inadequate at tackling the problem of environmentally damaging design.

We are concerned that utilizing previous models and designs for further development does not allow for accessible adaptations to ensure building can reach carbon neutral status. With the government's touted 'green housing revolution' and commitment to build 300,000 new homes every year there is potential for these designs to be adaptable to changing climate related policies, previously designed models it seems may struggle to adapt to an industry that seems to become more stringent on allowing for environmental naivety.

It is stated on p.52 paragraph 6 to use 'popular and replicable designs, we feel these designs will fall short of really addressing clear solutions to the climate emergency and keeping to the target of net zero emissions by 2050.

There is a lack of emphasis on environmental or sustainable design proposals being put forward. For example, the Passive Haus designed by Dr Wolfgang Feist which promotes a serious reduction of emissions in its design is quoted as using only 5.5% of the energy used to heat a conventional home. We feel the paper itself is not seriously addressing the huge steps needed to reach net zero by 2050.

There is little reference to social housing in this document which leads to a concern on how the sector will cope with these policy changes. It is unclear how social housing will evolve to integrate more sustainable practices and who will be responsible for this.

Source: <https://www.buyassociation.co.uk/2020/02/13/climate-change-and-housing-how-the-movement-will-impact-uk-property>

Pillar Three – Planning for Infrastructure and Connected Places

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

Other (please specify): building community/roots, protecting the environment/safe place, good public transport, cycle and walking routes, local shops, small businesses to provide employment.

The priority cannot be a single choice answer as you have suggested. We need more affordable homes, better access to green space, and protection and enhancement of existing green space, sustainable infrastructure with priority given to making provision for walking, cycling and public transport, local shops and employment space as well as space for leisure, recreation and community uses. New development should be well designed as a matter of course, achieving high standards of energy and water efficiency, zero-carbon, with good access to nearby green space and local facilities.

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

No. We don't understand what the reason for this would be except to make developments more profitable? We are concerned that the proposals, as drafted, may lead to a reduction in the amount of affordable housing developers provide.

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

No comment.

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

More value. The aim should be to secure a greater proportion of the uplift in land value in order to support greater investment in sustainable infrastructure, affordable housing and local community facilities. Most property development is very profitable as can be seen by the high profits made by companies such as Persimmon and the other big companies. On the basis of these profits, huge bonuses are made to the directors.

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

No comment.

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

Yes. It is unfair that development delivered as a result of exercising permitted development rights is able to sidestep local policy requirements, development impacts and community needs for private gain.

Evidence from academics, sector representatives and the government commissioned research highlights the poor planning outcomes of homes delivered through Permitted Development Rights. Shortcomings include poor design; failing to meet basic space standards; poor residential amenity; lack of affordable housing contributions; impact on business; and lack of infrastructure. The best way to ensure the level of scrutiny required to address these unacceptable impacts on our environment, health and wellbeing is to require a planning application and scrap Permitted Development Rights other than for very minor development.

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

We need to plan for the delivery of more affordable homes than we do at present. This requires developers to provide more by way of planning obligations and higher levels of direct public investment.

Loopholes whereby developers are able to avoid providing affordable housing or reduce the amount they provide on spurious grounds of 'viability' or as a result of exercising permitted development rights must be closed.

Provision of affordable housing should be made a mandatory requirement that developers and landowners factor in from the outset when devising schemes and remain committed to on delivery.

The government should look at increasing overall affordable housing requirements through planning obligations. Therefore it makes no sense to reduce requirements for small and medium size housebuilders, as the government is proposing (see separate consultation regarding 'Changes to the Current Planning System' closing 1 October).

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

Affordable housing should be provided on site, with the aim of delivering mixed tenure communities where possible.

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

No comment.

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

No comment.

25. Should local authorities have fewer restrictions over how they

spend the Infrastructure Levy?

No comment.

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

Yes. An affordable housing ring-fence should be developed in order to ensure monies received are allocated to delivery of affordable housing.

Equalities Impact

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

Yes. We are concerned that these reforms, were they to go ahead, would disproportionately affect vulnerable groups. This would be the result of a planning system that is poorly designed to cater for their needs, which restricts councils in setting local policy and where a key stage of the planning process, whereby communities and councils have their say whether development can go ahead and if so, in what form, is to be omitted.