

Annexe 2 - TfL response to Planning for the Future White Paper

Executive summary

Transport is critical to London's growth

Over the past 20 years, Transport for London has played a critical role in integrating transport with land use planning in the Capital. We do this through various means as: a transport operator, highways authority, statutory consultee, participant and key stakeholder in planning for growth areas, landowner and developer.

The approach we have taken is an essential part of increasing housing delivery, particularly within London, given the differences between London and the rest of the country. Such differences include: significantly higher existing population densities, a much lower reliance on cars and higher land values that can be leveraged to support necessary investment in transport infrastructure. It is also the case that transport provision and impacts ignore local administrative boundaries, and therefore strong, coordinated pan-London planning has been a vital element in the city's success.

Regrettably, the White Paper makes limited reference to transport (or to London), despite it being a key driver of housing delivery in urban areas. Transport not only unlocks more areas for development (e.g. through new or enhanced transport connectivity), it also enables higher densities; embeds sustainability and helps mitigate the impact of development (e.g. through additional transport capacity or quality). Particularly in urban areas, local and strategic plans need to steer growth towards locations that are well served by public transport, walking and cycling (rather than the car) so that development is sustainable and fosters a good quality of life. This applies around cities as well, as car-reliant development outside London can have significant congestion impacts within it, with nearly one third of car trips in London originating from beyond the city.

Our recommendations for ensuring transport is successfully embedded in planning are:

- Development management policies should sit at the regional level (where this applies), and the role of the London Plan and general conformity with it must be retained. This is essential to ensuring the role of public transport, walking and cycling is maximised and that this in turn supports greater housing delivery.
- Similarly, the London Plan should be able to set standards/rules for strategic issues which impact across borough boundaries (including transport) to deliver better outcomes. In the London context we can go further than other parts of the country in e.g. optimising sites/densifying, achieving mode shift and reducing environmental harm, given the assets we already have such as a comprehensive public transport network and established network of mixed-use town centres and high streets which enable sustainable living. These standards/rules should be driven by London-wide spatial data analysis and consequent requirements.
- Transport connectivity should be a fundamental consideration in land designations, with greater connectivity incentivising higher densities. There should be a distinction between sustainable locations where local authorities are seeking to encourage smaller scale/incremental development and less sustainable locations that are not protected.

- Should the proposals for land designation proceed, it is appropriate for this to sit at the local plan level. However, the London Plan should be able to set out guidelines for boroughs to follow as part of this process, such as encouraging the designation of growth areas linked to the existing or planned public transport network.

Transport needs should be considered through both local plans and planning applications

The lack of an outline permission stage in areas designated ‘for growth’ will concentrate the burden of identifying development potential relative to infrastructure provision at the local plan stage. If there is uncertainty around supporting transport infrastructure at the point where a local plan is reviewed, the outline permission stage offers another opportunity for this to be resolved. A less discretionary system could instead force councils into lowering housing densities across growth sites to make their plan acceptable. This goes against the intentions of the proposed reforms and needs to be considered carefully before changes are made to the existing planning system. Our recommendations are:

- The proposal for automatic outline permission should be dropped. Short of this, an outline permission stage of some description should be retained, potentially as a means of updating the assumptions made at the local plan stage with the latest infrastructure requirements.
- If the proposals for local plans go ahead, when setting the scale of development that a site designated for growth can accommodate, local plans should have the option of making this conditional on transport infrastructure provision. Outline permission should not be fully automatic in such instances, but subject to proposals for infrastructure provision, which may require phasing and/or Grampian conditions.

Maintaining the essential funding of transport infrastructure to support London’s growth

It is particularly important that the planning system properly considers and supports new transport infrastructure as cities grow, including ensuring adequate funding and its timely delivery. As such, it is essential that any reformed system of planning obligations captures the value in London, delivers infrastructure in advance of development and reflects the site-specific transport mitigation that is needed to make many developments acceptable and sustainable.

Both the 2016 London Plan and Intend to Publish London Plan recognise the fundamental role that transport infrastructure and investment to deliver this play in not only unlocking and supporting development across London but also enabling higher densities, successful places and sustainable growth. It is key also for viability and developer confidence and they – as well as local communities – need to be confident that the appropriate infrastructure and mitigations will be delivered in a timely way. This is why the London Plan recognises that priority for developer contributions should firstly be applied to necessary transport improvements alongside affordable housing. How this is applied will, of course, vary according to the specific circumstances at each site, but it is imperative that any changes to developer contributions in London still enable at least the same scale of transport investment and provide certainty of delivery. Otherwise, the lack of transport infrastructure provision is likely to curtail growth or significantly worsen outcomes in the very locations where growth should be focused, i.e. urban areas.

To support housing growth, transport impacts need to be both mitigated directly and, more widely, London must have access to predictable and consistent funding to support development and growth across the city. Without this, London's transport networks will not be able to function properly, and this might exert downward pressure on densities and ambitious plans for regeneration and renewal. The potential impacts on the delivery of Crossrail and other long-term, strategic transport projects are of particular concern, and it must be noted that these kinds of transport projects rely on an appropriate share of developer contributions in London, 'insulated' from shorter-term and more localised trends and priorities.

As well as supporting higher overall housing growth, the delivery of more genuinely affordable housing is a key strategic issue for London. Investment in transport infrastructure is an essential part of achieving this and developers' contributions play a crucial role in supporting this investment. While other types of infrastructure are important, transport plays a fundamental role in increasing housing delivery, for two reasons.

Firstly, it can enable areas to support significant development by increasing transport *connectivity*. Recent and ongoing examples in London include the Northern line extension which has prompted large-scale development in Vauxhall, Nine Elms and Battersea; the extension of London Overground to support 10,000 homes in Barking Riverside; and the Elizabeth line supporting homes at numerous points along its 73-mile stretch. This principle also works at a smaller scale through improvements to local bus and cycle networks. Improved transport connectivity enables greater use of public transport, walking and cycling, which in turn supports greater densities and thus supports the delivery of more new homes. In many cases, transport investment is critical to transforming the viability of an area for large-scale development.

Secondly, transport investment plays a critical role in mitigations that make the scale of development in an area acceptable – both at the local plan and development management stages (see further comments in the next section). It does this by supporting additional transport *capacity* needed to prevent otherwise unmanageable crowding, particularly on buses (which carry more than any other mode of public transport in London) and in some cases stations and rail lines. This makes a greater level of development acceptable, thus supporting more new homes.

Without transport investment, the impacts of development—both individually/locally as well as cumulatively—would become unmanageable and the potential for new homes would be curtailed. Connectivity and capacity enhancements can therefore increase the amount of development that is possible on a given site, as well as ensuring it is sustainable and successful. Significantly increasing the supply of genuinely affordable housing across London can therefore not happen without securing appropriate funding for transport improvements. In many cases, transport also plays an important role in expanding access to and, in some cases, reducing the burden on social infrastructure through higher physical activity (e.g. walking and cycling improvements) and community cohesion (e.g. reduced severance).

The funding and timely delivery of this transport infrastructure is key to enabling growth in London. However, the White Paper suggests a number of changes that could fatally undermine this. Unlike section 106 obligations, where developer contributions are sought to mitigate the negative impacts caused by a development, a standardised, nationally set Infrastructure Levy (IL) paid at the end of the development process poses a number of severe risks which we have set out in response to question 22a) below.

Given the vital role of transport in London, the Government must design its final proposals carefully to protect fundamental aspects of how the system currently functions. Our recommendations for this are:

- Allow the approach to developer contributions to be set at the city-region level (ideally combined with variations at the local level) rather than nationally. This will help maximise housing delivery by allowing variation in circumstances to be reflected and maintaining a London-wide view to secure necessary transport improvements that span borough boundaries. An optional, nationally set IL could apply in parts of the country that do not wish to set one locally. This could, in effect, achieve the aim to increase collection of a levy throughout the country.
- Retain MCIL or an equivalent, dedicated Mayoral levy with funds ringfenced for strategic transport infrastructure. To ensure consistency, avoid disruption, and ensure timely infrastructure contributions, MCIL should continue to be set and administered within the framework of CIL Regulations. It is worth noting here that MCIL in London is currently assumed to repay Crossrail debt up to 2041.
- Retain a mechanism for site specific, off-site transport infrastructure to be funded by the developer where this will enhance value, unlock the site or unlock additional homes. There also needs to be flexibility for either the developer, borough or TfL to deliver it as appropriate. Retaining the current system of section 106 agreements would be the most straightforward way of protecting this function.
- Maintain the existing arrangements for section 278 agreements. S278 works are very site/development specific mitigation or deliver infrastructure fundamental to the construction or occupation of a specific development. To encapsulate such infrastructure requirements into a single development mitigation payment would result in significant risk to both the public authority and the developer given the fundamental nature of the works for the construction/occupation of the development. TfL manages the Transport for London Road Network (TLRN) and these agreements are essential to maintaining highway safety as new development comes forward. However, the consultation is unclear if these are to be retained. We strongly recommend that s278 agreements are retained in their current form and do not form part of the IL proposals.

Conclusion

We are keen to discuss practical solutions to the issues we have raised to support the Government's objectives. , We are able to provide a rounded perspective and wealth of practical experience with respect to transport, of what is required to support the delivery of new homes in London. We also have world-leading transport data, analysis and modelling capabilities, which could be used towards the aims of making a more digital and accessible planning system. Our full response to the government's consultation questions is appended below.

APPENDIX – FULL RESPONSE TO GOVERNMENT CONSULTATION QUESTIONS

<p>1. What three words do you associate most with the planning system in England?</p> <p>Necessarily regional</p>
<p>2. Do you get involved with planning decisions in your local area?</p> <p>Yes. TfL has multiple roles in the planning system in London. These include:</p> <ul style="list-style-type: none"> • Feeding into the London Plan and supplementary planning guidance through the GLA • Responding to and helping to shape boroughs' Local Plans, and engaging with the Wider South East on policies and major projects/applications that impact London • Reviewing the transport aspects of referable applications on behalf of the Mayor, and commenting on non-referable applications in some cases (such as when these might affect the Transport for London Road Network (TLRN)) • Helping to develop Opportunity Area Planning Frameworks and master plans • Responding to and planning for growth as an infrastructure provider (e.g. stations and railways), transport service provider (e.g. bus services) and highway authority (for the TLRN) • Publishing guidance e.g. for Transport Assessments and standards e.g. the London Cycling Design Standards (LCDS) • Being an Infrastructure Manager under ROGS and the Town and Country Planning (Development Management Procedure) Order 2015 • Being a landowner and developer (see separate response from TfL Commercial Development)
<p>3. Our proposals will make it much easier to access plans and contribute your views to planning decisions. How would you like to find out about plans and planning proposals in the future? [Social media / Online news / Newspaper / By post / Other – please specify]</p> <p>We would like to continue our close engagement with London boroughs and developers, based on our role supporting the Mayor in the exercise of his planning powers (the spatial development strategy, local plan conformity and referable applications) and as a Statutory Consultee, highway authority and transport infrastructure/service provider. This should continue to be complemented by boroughs' formal consultation processes when TfL's transport operations, infrastructure, management, projects or statutory duties could be affected. Beyond London's boundary, the Duty to Cooperate (which we expand upon in response to question 7b) has been helpful in ensuring regular liaison with Wider South East authorities on cross boundary and strategic transport issues</p> <p>We also would not want to see the obligations contained within the Town and Country Planning (Development Management Procedure) Order 2015 (which were introduced for railway safety reasons) to be cancelled or in any way reduced in clarity or effectiveness.</p>
<p>4. What are your top three priorities for planning in your local area?</p> <p>In addition to supporting the London Plan objectives set out in the Mayor's response, our priorities include: supporting mode shift to walking, cycling and public transport; providing the transport infrastructure that London needs; and managing the impacts and mitigating any risks of development on London's transport networks.</p>
<p>5. Do you agree that Local Plans should be simplified in line with our proposals? [Yes / No / Not sure. Please provide supporting statement.]</p> <p>No. While in principle we are supportive of appropriate measures to simplify planning processes, in actuality these proposals would remove necessary flexibility and reduce the ability of the system to reflect nuance between different locations and changing circumstances. Moving</p>

development management policies to the national level would ignore the significant differences between London and other regions (see our response to question 6) as well as between urban and rural areas. There are considerable issues with the approach to land designated as 'for growth', including risking either significant negative transport impacts or conservative and unambitious housing assumptions (see our response to question 9a).

Sustainable transport must be a key consideration in the determination of locations for new homes, but is barely mentioned in the White Paper. This includes uses other than housing, which are not given enough regard in the proposals e.g. workspaces generate significant regular travel during peak hours and so need to be as accessible by public transport as possible. This applies not only to sites marked 'for growth' but 'renewal' areas, which try to encapsulate everything that is not able to cater for large-scale growth or is not singled out for protection. This ignores the role of plan-making to steer growth to more sustainable locations (see our response to question 9b).

The planning system needs to protect more than green space and Conservation Areas, and this can be in the form of *functions*, rather than just *specific pieces of land*. In some cases, part of a site can be suitable for redevelopment, providing mitigation can allow the function (such as providing space for bus services to terminate) to continue. Without land for transport functions, we would not be able to provide the existing public transport services that are essential to support London's dense, growing population. Moreover, major infrastructure projects such as the Elizabeth line, Northern line extension and London Overground extension to Barking Riverside play a key role in unlocking areas to deliver tens of thousands new homes. It is not possible to deliver this type of large-scale rail scheme without adequate protection into the future for necessary land/sites, including through local plans.

The Government should carefully consider how new infrastructure is to be planned for and brought forward as part of its proposals. If the parameters for development are too narrow/prescriptive there is a danger of making it very difficult to secure planning permission and find sites for infrastructure such as new or upgraded stations and rail extensions.

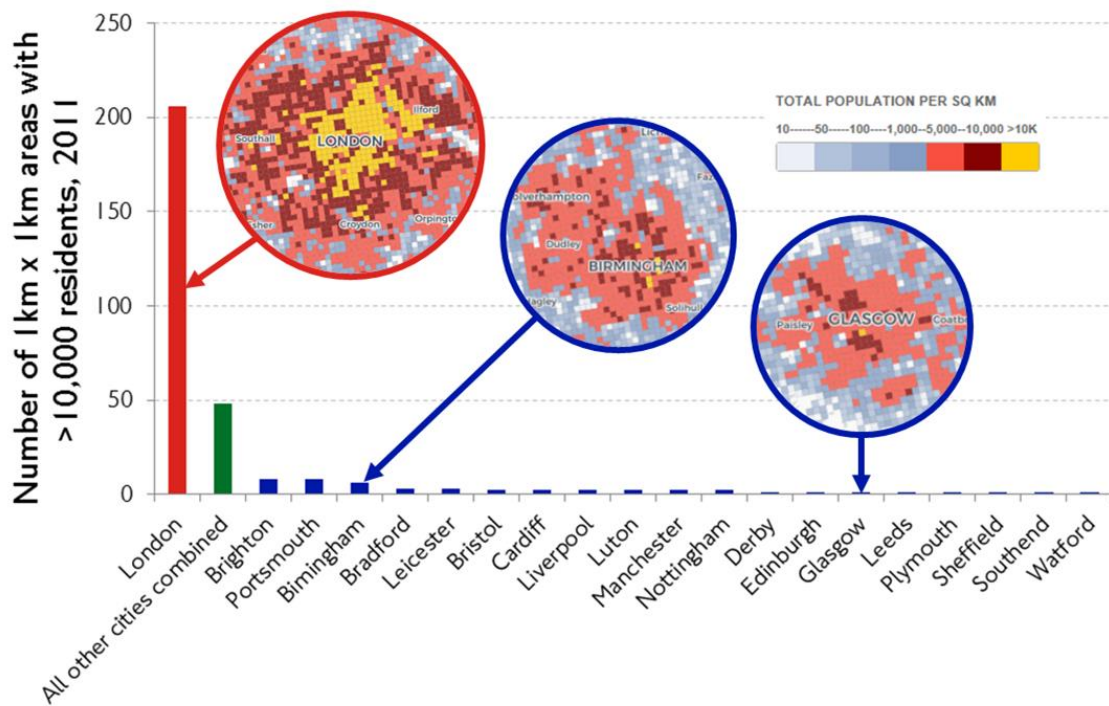
We also note that both flood risk areas and those that come under 'other important constraints' are excluded from growth designation.' While we oppose the introduction of the growth designation, should it proceed, it would be appropriate to also include sites that are registered as "Zone of Interest" under the Town and Country Planning (Development Management Procedure) Order 2015. This is needed to adequately protect the safety of transport assets and operations, as also being excluded from the growth designation.

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, development management policies should be set at the city-region level, and where these are not in place, then nationally. In some parts of the country, notably London, plans can be more ambitious in delivering highly sustainable patterns of development which make the best use of land, improve the quality of the built form and enhance liveability and the environment. In such places, policies can go further than elsewhere, which can deliver greater levels of growth—as well as higher quality—than would otherwise be accommodated.

London differs from the rest of the country in many ways. A planning system that is not able to reflect these differences would deliver fewer new homes in London and less of the necessary transport infrastructure needed to enable them. London is far denser than other British cities: at the time of the last census, much of inner London and some large parts of outer London had a greater population density than nearly every city centre in the UK. This means the existing character of many areas can accommodate a higher density of development, helping to maximise housing supply.

Density comparison of UK cities



Source: TfL analysis of 2011 Census as mapped¹ by Dan Cookson (@danc00ks0n)

This density is only possible due to the role of public transport, walking and cycling in London's transport mix, which total to around 63 per cent of trips. London's world-leading public transport network, growing number of safe cycle routes and high density of amenities within walking distance all contribute to nearly one in two households not owning a car – far higher than the UK average. Given London's high population density, this lower rate of car ownership is critical for allowing the city's road network to function, and to accommodate further growth. Lower car reliance also means less parking is needed, particularly in inner London and near stations, which frees up scarce space to increase the number of homes being delivered.

This success of London's transport network would not be possible without a strong London-wide role in its planning and operation. When TfL and the office of the Mayor was created in 2000, the car was used for around one in two trips. Investment in public transport, walking and cycling helped reduce this to closer to one in three 15 years later, all while housing supply was doubled over the course of successive London Plans. The integration of transport and land-use planning is one of London's biggest assets and is essential to maintain as issues of housing and transport both span administrative boundaries. Both as part of the Mayoral family and through our role as London's strategic transport body, we play a critical role in realising London's potential for new homes, which could not be replicated by individual boroughs (either because issues cross their boundaries or are outside their role). This includes: planning new homes based on what the transport network can be, rather than what it already is, coordinating infrastructure delivery with development, and planning, securing funding for and protecting land for strategically important infrastructure projects such as the Elizabeth line, Crossrail 2 and the Bakerloo line extension.

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?

The White Paper does not contain enough detail to assess the effectiveness of a single sustainability test and there are real risks from moving away from the soundness test. While sustainability is a laudable aim, one of the most fundamental aspects of the sustainability of a

development is where it is located, and the White Paper does not address this at all. This includes existing urban areas with good public transport provision and directing growth to brownfield sites in cities and towns in need of renewal and regeneration, rather than greenfield sites which should largely be protected. This should be made explicit to prevent development that is reliant on cars – this pattern of development causes significant environmental, health and congestion problems for those in the immediate vicinity and those further afield (around three in ten car trips in London are generated from outside its boundaries). These types of development also result in worse outcomes in key respects for those living there, including lower levels of physical activity and a lack of transport options for people who do not drive.

There are also functions of the existing legal and policy tests which need to be carefully considered before being abandoned. While in most cases councils will, for example, consider reasonable alternatives, develop policies based on evidence and seek to meet infrastructure requirements (all covered by the soundness test), there may be cases of councils failing to live up to these expectations—and it is particularly then that the elements of the soundness test would become important.

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

Our approach within London is partnership working between strategic authorities (ourselves and the GLA) and boroughs, supported by city-wide policy for strategic issues including transport. We commonly produce statements of common ground with boroughs on transport issues relating to local plans under the Duty to Cooperate (DtC). These are useful to highlight areas of agreement for the benefit of planning inspectors, although it is difficult to isolate the effect of Duty to Cooperate within London given that boroughs are also mindful of the need for General Conformity with the London Plan. Disagreements over transport issues and what constitutes general conformity – which are inherently cross boundary – do remain despite DtC.

Beyond London’s boundary, DtC has been helpful in ensuring regular liaison with the Wider South East authorities on cross boundary and strategic transport issues. Removing it without a replacement would likely reduce the level of coordination on transport matters and reduce the weight of TfL’s views on local plans just outside of London, where growth may still have an impact on our transport networks.

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

No. The approach of a London-wide SHLAA allows transport connectivity and capacity to be considered with a reasonably high degree of nuance and reality which is likely to be lost at the national level. Housing targets should be informed by what can sustainably be accommodated where.

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

No. As above it is important that transport connectivity and capacity inform the potential for development. As the Mayor sets out in his response, affordability is a more complex issue than the White Paper presents it. It is unclear from the proposals how the extent of an existing urban area would factor into the calculation and whether the existing population densities and transport connectivity of those areas would be considered.

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

¹ EU Population 2011 by 1km grid:

https://dancooksonresearch.carto.com/u/dancookson/viz/49ca276c-adf9-454a-8f64-0ccf0e46eed0/embed_map

No. While there are similarities to some existing designations in London e.g. Opportunity Areas and 'for growth', how these are currently proposed would mean effectively boroughs will have to classify each site to achieve enough nuance (which may take years to achieve and might become outdated relatively quickly in a changing context). The amount of upfront planning required for growth areas (master plan and site-specific design codes) might push the local authorities to minimise land designated 'for growth' and designate more as 'protect' or 'for renewal', undermining the aims of the White Paper.

We are particularly concerned about how infrastructure provision might interact with this new designation. Planning for the right transport infrastructure to support growth is important at every stage of the planning system in London. Firstly, strategic interventions are identified through the Mayor's Transport Strategy and tested against the levels of growth in the London Plan. Local plans can then identify further measures to support growth, and finally the transport constraints and opportunities relating to a specific development site can be considered through the outline permission stage. If there is uncertainty around supporting transport infrastructure at the point where a local plan is reviewed, the outline permission stage offers another opportunity for this to be resolved, including through planning obligations as described above.

The Government's proposals seek to change this balance, with an automatic outline permission for proposals on land designated 'for growth' that are in line with the parameters set out by the local plan. While this might in theory speed up the application process, this comes with several risks. Essentially, the proposals would concentrate the burden of identifying development potential and its relationship with local transport infrastructure provision at the local plan stage. There are two ways this could be applied in practice. One way would be for the delivery of infrastructure to be assumed, but this could lead to unacceptable and unmitigated impacts that increase local opposition to development. Such impacts could include exacerbating levels of crowding on rail services such that they could only be managed by refusing entry to certain stations during peaks in demand.

Alternatively, councils could be forced to assume infrastructure will not come forward to avoid objections at their local plan examination from stakeholders seeking to avoid more rail crowding, such as major businesses concerned about their employees' ability to get to work. While this could be implemented, as the White Paper suggests, by not including sites where there is no reasonable prospect of the infrastructure coming forward within the Plan period, in many cases *some* sites could come forward without infrastructure, but it may not be clear which ones. Instead, councils may have to set out lower density assumptions on all the relevant sites than could otherwise be accommodated with the potential infrastructure improvement, unnecessarily reducing housing delivery and failing to optimise sites.

There may partial solutions to this, such as phasing development. However, that assumes that developments are planned together – it is currently possible to realise the full potential of some sites and make others that come forward later conditional on additional infrastructure. Under the proposals, there would be no mechanism for considering how much development had come forward in an area and its impact on infrastructure at the point of application; outline permissions for each site would be automatic with no regard for what has happened around it since the local plan was finalised. Equally, the land use mix that comes forward in a growth area will significantly impact the travel demand (e.g. retail, industrial and office uses all generate vastly different travel patterns), and there is a need to be able to review and reconsider what infrastructure is required should an unexpected land use mix develop (or in light of other factors that might not have been foreseen).

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

No. The designations are too blunt. Within 'Renewal', we may reasonably want to see either encouragement of renewal in more sustainable locations, or appropriate densification where high quality infrastructure is already in place. Under this classification, we end up with low-PTAL (Public Transport Access Level) suburbia being treated the same as existing housing next to a station that could be intensified. We could also see very well-located sites lack ambition with regard to density and scale.

Meanwhile, while a single 'Protected' category would cover Green Belt and Conservation Areas as the White Paper suggests, it is unclear how essential infrastructure would be safeguarded. This includes strategic industrial land, existing transport land such as bus garages and stations, and sites needed to deliver future strategic rail schemes.

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

Any planning process for bringing forward new settlements should place a high priority on addressing strategic and cross boundary transport issues. New settlements outside London that place pressure on London's road and rail networks needs to be considered carefully and mitigated as appropriate. The NSIP route is unlikely to be suitable for addressing the complex planning issues entailed.

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

Faster, more certain decisions are in theory welcomed, but only if they remain good, well-informed decisions. As set out above, there are significant weaknesses and risks with the proposals that need to be addressed.

The idea of some consistent conditions would be welcomed, particularly if included within those conditions could be appropriate ones to protect the safety of transport assets and operations. TfL Infrastructure Protection would welcome the opportunity to input to discussions on this in the same way as we did with the Town and Country Planning (Development Management Procedure) Order 2015. However, we have deep concerns about the provision for "Deemed Approval" as there would be a high risk of applications being approved that would impact the safety of transport assets and operations. Adequate safeguards would need to be in place for transport operators to prevent this happening as local planning authorities are not necessarily going to prioritise such protections in their local plans.

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

Yes, in principle we would welcome more accessible, web-based plans. It will be vital, however, as part of this to address the considerable challenges in transforming the current approach to collecting evidence for local plans in terms of significant resource and skills requirements (see our response to question 12 below).

We could potentially support this process through our world-leading capabilities in transport modelling and analysis (which individual boroughs could not realistically replicate). This includes testing the road and public transport impacts of growth through our strategic transport models—an essential part of the London Plan evidence-base—and shows that London's growth can be sustainably accommodated with the right transport measures. Without this, boroughs' local plans would lack the same level of analytical backing and may attract objections during their examinations, potentially from highway authorities concerned about the impacts of growth. We are open to applying our expertise towards the Government's objectives for a faster, easier to use and more data-driven system, building on such spatial analyses as our [WebCAT connectivity tool](#).

A maintained or enhanced role for London-wide planning would create more opportunities for data-driven and open decision making than relying on varying approaches across London's 35 local planning authorities. We would be keen to participate in any discussions between MHCLG

and the GLA on this topic to further explore how TfL can best support the Government's aims for digitisation.

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

No, this is unrealistically short. Some upfront work can clearly be helpful for collaboration and clarity, but many transport aspects cannot be planned at such an early stage when it would not be known what the land use will be, or which sites will come forward. There could be significant work done for scenarios that do not play out—noting for example that only half of permissions are built, many identified sites never come forward, and the context for transport changes over time.

If local plans are to play an enhanced role in setting the scale, scope and form of development, this will require higher quality input and analysis at the outset. Work would need to be done in advance for all sites that *could* come forward, rather than incrementally as sites *actually* come forward. Input from TfL will be an essential element in this process but replicating this process 35 times within four years is not feasible and, if rushed, could exacerbate the issues set out in our response to question 9a above. Front-loading the work is likely to involve significant abortive work that will need to be repeated every few years as it will almost certainly involve onerous and detailed assessments of sites that do not come forward, and the results of which are likely to be out of date by the time the local plan is due to be reviewed.

This would also be a huge resource drain on the boroughs. The proposals would involve reviewing standards, design codes and specific site designations, all at a faster pace than local plans are currently produced. As well as resources, there could be a skills gap. The proposals would require much more data and spatial analysis and detailed design code development, much of which would have to take place in its entirety in advance of a local plan being developed.

The more that is expected to come from a local level, the bigger challenge there will be for both the individual boroughs to produce the relevant materials, and for TfL to check that these materials are appropriate for delivering the strategic transport outcomes needed to support London's growth.

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

We do not oppose the retention of Neighbourhood Plans, although these need to contribute also to strategic/London-wide transport outcomes in the same way borough plans do. We do, however, note that it is proposed that up to 25 per cent of the IL is retained as a neighbourhood proportion. While the percentage mirrors what is currently in place, under the proposals this would be a share that a pot that is a) expected to replace planning obligations, which is not currently subject to a neighbourhood proportion and is b) expected to include affordable housing. While communities have delivered some very good projects, the proportion passed to communities will impact commuted sums available for affordable housing and the delivery of necessary transport infrastructure and be a significant change to the current approach, which does not appear to be justified.

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?

No comment

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?

As described above and expanded upon below, the timely delivery of transport infrastructure is important for supporting the build out of developments. Boroughs already face challenges in securing the transport investment necessary to fully meet their housing need, which the proposals could exacerbate. The proposal for the Infrastructure Levy to be paid upon occupation,

rather than in advance of development coming forward, could make it harder to build out developments faster.

15. What do you think about the design of new development that has happened recently in your area? Design [Not sure or indifferent / Beautiful and/or well-designed / Ugly and/or poorly-designed / There hasn't been any / Other – please specify]

The focus must be on wider considerations of place-making and good growth rather than narrowly on 'beauty'. While the aesthetics of building design itself may not necessarily influence the transport choices of those using a development, the design of the public realm in and around buildings plays a central role. Furthermore, how facilities for transport are accommodated within a development can have a significant impact not only on its aesthetic design but also its success in terms of a place to live. Car parking is the most significant example of this, taking up around 11 square meters for each parking space and additional space required for circulation. The extent of its impact on design is primarily driven by how dense the development is, and how high the ratio of car parking is. For higher levels of parking, there are fewer options for how to accommodate it. These options include: taking up valuable ground floor space (e.g. podiums/garages), surface car parking which can dominate the landscape and involve significant land-take, and obscured car parking (e.g. a basement). The latter can result in a better design but often at a considerable cost (including a potential need for car lifts), which in turn could reduce: the overall quality of the development, potential for contributions to affordable housing and necessary supporting infrastructure, and/or amenities. A successful approach to good design cannot disregard these impacts, especially in urban areas where there are alternatives to car ownership (including the provision of sustainable modes and shared car services (taxis, private hire vehicles and car clubs/hire).

It is important that the streets in and around new developments perform well and enable and encourage people to choose walking, cycling and public transport for their everyday journeys. TfL applies the Healthy Streets Approach which is based on 10 evidence-based indicators of a street that supports active travel and a higher quality of life (such as being easy to cross and having places to stop and rest for those less able to walk continuously). We recommend using this Approach to inform proposals relating to the public realm and streets in and around new development.

16. Sustainability is at the heart of our proposals. What is your priority for sustainability in your area? [Less reliance on cars / More green and open spaces / Energy efficiency of new buildings / More trees / Other – please specify]

As per our response to question 7a above, a significantly lower reliance on cars is critical to achieving sustainable development. London faces acute challenges of:

- The highest levels of congestion in the UK. This comes at a considerable economic cost, delays essential freight and emergency services and adds to other challenges, including severance which impacts community cohesion
- Illegal levels of poor air quality, particularly in inner London and along London's main arterial roads. This contributes to early deaths and worsened health conditions among London's residents. While we have made progress recently, challenges remain, and we must continue to reduce emission levels (which will also support reducing London's contribution to climate change) including particulate matter from tyre and brake wear. Notably, the reduction in emissions from transport in London has been mainly through a switch away from car use towards sustainable modes, and this shift is the most effective way to accelerate reductions in emissions.
- Low levels of physical activity and high levels of obesity: the amount of daily active travel a Londoner gets is highly negatively correlated to the number of cars in their households. Enabling walking and cycling as part of a daily routine is the most practical and straightforward way of people meeting the recommended minimum levels of daily physical activity (20 minutes) and this will reduce healthy inequalities amongst Londoners.

- Unacceptable death and serious injuries on our roads: while we have had some success in bringing death and serious injury down on London's roads, other cities have had greater success. Oslo and Helsinki, for example, recorded *zero* pedestrian deaths in 2019. While London is a much larger and more complex city, it shows what is possible with concerted action and we are aiming for no deaths or serious injuries from road collisions on London's streets by 2041.

New development must do what it can as a minimum not to exacerbate these challenges, but also to contribute positively towards the desired outcomes. This can be achieved by directing growth to well-connected locations (as per our response to questions 15 above and 21 below) and designing developments to support and enable active and sustainable travel. To successfully plan for and deliver good outcomes, city-region development management policies are needed so that growth is properly coordinated and reflective of the London context and it is made sustainable.

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

The London Plan supports greater use of design codes and these do offer an opportunity to improve the design of development to better support walking and cycling. However, the proposals require significant 'frontloading' of work to replace the outline permission stage with parameters set in local plans. This scale of resource needed makes the timelines proposed unrealistic (as we set out in our response to question 12 above). There may also be a danger in some instances of design codes becoming prescriptive and rigid which may not be applicable in all contexts; they might also stifle innovation or respond poorly to changing lifestyles (for example, a reduction in car ownership in cities and towns).

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?

No comment

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

No comment

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

No. Consideration should be given to all aspects of development including how it enables sustainable travel infrastructure and delivers functional public realm. Fast-track could be applied when the development meets holistic aspects of sustainable design (ideally set at the regional level), including supporting transport infrastructure, walking and cycling, and not just aesthetics of the building itself.

21. When new development happens in your area, what is your priority for what comes with it? [More affordable housing / More or better infrastructure (such as transport, schools, health provision) / Design of new buildings / More shops and/or employment space / Green space / Don't know / Other – please specify]

As described above, transport infrastructure is a critical part of unlocking areas for growth and enabling greater and sustainable development in existing, built-up areas. In addition, development has the potential to improve local walking and cycling connections, in some case through off-site mitigation (e.g. where a development might otherwise cause crowding on a section of pavement) or through on-site measures, such as permeability through a site for people walking and cycling.

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. The funding and timely delivery of transport infrastructure is key to enabling growth in London. However, the White Paper suggests several changes that could fatally undermine this. As compared to section 106 obligations, where developer contributions are sought to mitigate the negative impacts caused by a development, a standardised, nationally set Infrastructure Levy (IL) paid at the end of the development process poses a number of severe risks:

- **Less of London's value would be captured for reinvestment:** the IL rate would need to be set at a high rate to ensure that the level of contributions that are currently secured in London are achieved through the Levy. However, a high fixed rate could put development on some sites at risk. A nationally set single, or area-based Levy would result in less affordable housing and infrastructure funding being secured than under the current system and would also prevent developments from being delivered, given that this could not take into account variations within local development markets and site viability. The minimum threshold could also have a significant cumulative impact on levy receipts. Examples of how the threshold could be set and how it would work in practice would allow for a thorough assessment of this proposal. Finally, up to 25 per cent of the levy is proposed to be retained as a neighbourhood proportion, but this ignores that the pot would replace many section 106 contributions, which are not currently subject to neighbourhood contributions. The combined effect could be a significant reduction in developer contributions in London, particularly in higher value areas—with consequent adverse implications for the delivery of vital transport infrastructure.
- **Transport contributions could be de-prioritised:** In London, the interrelationship of transport improvements (supported by planning obligations) and affordable housing delivery are central to delivering the London Plan and are therefore recognised as priorities for developer contributions. However, a single source of contributions through the IL, including for affordable housing, could lead to local authorities prioritising funds where benefits are concentrated within their administrative boundaries (such as affordable housing, pupil places and or even council tax reductions) rather than those that span across them (e.g. necessary transport improvements). As a result, delivery bodies such as TfL would potentially be unable to access funds to mitigate development. Diverting funds away from transport investment could ultimately result in fewer homes being delivered (including affordable homes) and a failure to optimise sites, locking in lower densities and making it harder to meet housing requirements.
- **The timely delivery of transport infrastructure could be undermined:** Site-specific, off-site mitigation is crucial for allowing the transport impacts to be made acceptable. The current system – which accounts for the bulk of developer contributions in England, with s106 accounting for 85 per cent in 2018/19² – allows the scale and nature of transport mitigations to be tailored to different sites and uses (the transport impacts of a residential development will be very different to an events venue, for example). A flat levy-based system could lead to a severe mismatch, with many sites not receiving transport mitigation they require (particularly given the potential for lower overall receipts). Even where the right mitigation is secured, the proposals for payment to be made on occupation could mean infrastructure would typically not be in place by the time a development opens, in contrast to the current system, which gives legally binding certainty of funding and timing of infrastructure delivery. While boroughs could potentially borrow to mitigate this, they might be reluctant to accept more financial risk. Equally, transport behaviours have been shown to be habitual. This means that residents without access to sufficient and attractive public transport or active travel facilities could instead decide to use cars which would become an embedded behaviour despite future provision of alternatives.

² MHCLG. The Value and Incidence of Developer Contributions in England 2018/19, page 8

- MCIL and Crossrail could be negatively impacted:** MCIL receipts (and Business Rate Supplement) are currently being used to repay the £1.3bn in Crossrail borrowing over the next 10 years, with MCIL successfully raising more than £700m so far. Negotiations are taking place with the DfT to extend this borrowing further so that the project can be completed, but the ability to repay the Crossrail debt could be significantly disadvantaged if MCIL forms part of the new IL, whereby rates are set nationally and revenue in London falls (as described above). Current assumptions are for MCIL to be available to pay down Crossrail debt up to 2041, and any changes to MCIL would need to ensure the ability for planning obligations to continue to pay off this debt in an equivalent fashion. While the White Paper acknowledges MCIL and mentions that this could be retained, it does not provide certainty that this will be the case, nor that it would be ringfenced for strategic transport investment. Crossrail financing must be repaid and assurance from Government confirming income levels will be maintained under the new system is required. TfL successfully oversees the collection and monitoring of MCIL by the 35 London collecting authorities on behalf of the Mayor. The impetus for collecting MCIL is driven by the fact that the majority of London collecting authorities (all but three) have a local CIL in place, with local CIL and MCIL collected at the same time following the commencement of a development. This parity would be severed with the proposal for IL to be collected on occupation and could result in a fall in MCIL receipts as local CIL receipts are replaced by the IL. This could arise from a borough prioritising the collection of funds that it relies on, with less focus placed on MCIL. To ensure consistency, avoid the disruption associated with an entirely new Levy system, and ensure timely infrastructure contributions, MCIL should continue to be set and administered at a regional and local level within the framework of CIL Regulations.
- Necessary local flexibility could be lost:** A nationally set IL removes the ability of local authorities to balance the local needs for infrastructure arising from development against viability. In London, adopted CIL charging schedules demonstrate that values within a local authority area vary geographically and by use (as reflected by setting lower CIL rates in lower value areas to support development there). Viability considerations in London are complex and differ from the rest of the country, while the costs of delivering infrastructure can also vary considerably and are generally higher in London. The proposals do not reflect this reality.

The most straightforward way of avoiding all these risks is to maintain the current system of developer contributions (with some enhancements as appropriate). If the proposals are to proceed, we will need to explore options for at least partially mitigating these risks - although clearly it will not be possible to avoid many of the adverse consequences.

One important aspect is that, if s106 planning obligations for site specific mitigation are replaced,³ city-regions must be given some flexibility in how the Levy is structured and the Government should consider approaches we already practice in London via the existing s106 regime. This includes a formula-based, proportionate charge which contributes towards identified infrastructure requirements, often set out in growth area planning frameworks. The costs can be apportioned based on a site's impact, for example based on bus trips generated in the morning and evening peaks, resulting in a requirement for increased bus frequencies. This meets the spirit of desired changes as it is standardised, provides certainty and is expeditious, but crucially, it provides proportionate and necessary contributions for the transport requirements arising from developments.

³ It should be noted that, compared to other site-specific mitigations, transport mitigations are more commonly needed off-site as by its very nature, transport is about travelling to or from somewhere. This necessitates a mechanism to enable appropriate mitigations to be sought off-site.

This can be done through planning for Opportunity Areas and other growth areas and has been highly successful in Wembley, Colindale, and along the Old Kent Road. The same approach can be used to develop major Healthy Streets schemes, as has been done in Vauxhall, Nine Elms and Battersea. We are happy to discuss these options in further detail.

If our recommendations in the executive summary and above are not taken into account, at the very least, a proportion of the IL should be ringfenced for transport infrastructure, particularly if affordable housing is included in the levy. This would at least ensure that essential support for transport infrastructure is not de-prioritised at a local level.

We also note the suggestion (in a footnote to the White Paper) that section 106 planning obligations could be used to secure a covenant on the land, where necessary. While the use of covenants may provide more certainty for the delivery of off-site infrastructure, we would not want on-site mitigation works to form part of any discounting. We suggest that on-site works are captured by planning obligations (where planning permission is required) but do not count towards the developers IL liability in the same way as “in kind” delivery of off-site infrastructure.

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

The IL rate would need to be set at a high rate to ensure that the level of contributions that are currently secured in London are achieved through the Levy. However, a high fixed rate could put development on some sites at risk. A nationally set, single or area-based Levy would result in less affordable housing and infrastructure funding being secured than under the current system and would also prevent developments from being delivered (given that this could not consider variations within local development markets and site viability). The approach to developer contributions should be determined at the city-region level.

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?

The Infrastructure Levy proposal in the White Paper is extended to much wider purposes, including: potentially a reduction in Council tax, implementation of new planning system, affordable housing provision, infrastructure provision and whatever else councils may wish to use the monies for. It is critical that funding pots of at least an equivalent scale to those today remain available for transport infrastructure and that funding is accessible at the right time so infrastructure is delivered in a timely manner.

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

Under the proposals, payment of the levy will become due on occupation. However, calculating the IL at occupation means that transport infrastructure required to mitigate the impacts of a development will not be in place until after a development is occupied. Similarly, the early delivery of transport infrastructure often enables sites to be delivered at increased densities due to increased Public Transport Access Levels (PTAL). This, in turn, improves viability as more housing (and affordable housing) is delivered.

The government could partly mitigate this by allowing local authorities to borrow to forward fund infrastructure, but the inherent risks associated with this may prevent it from happening in practice. There will likely be an unwillingness by some authorities as borrowing increases financial risk at a time when local authority funds are limited. Inflation and interest accrued from borrowing also increase the cost of delivering infrastructure.

Unless there are developer contributions that are ringfenced for transport investment, strategic transport infrastructure may become increasingly reliant on grant funding. The availability of

funding (from whatever source), timing, requirements for bidding and receiving grant may be the main determinant for future strategic transport infrastructure priorities. TfL has worked in partnership with boroughs to utilise local CIL funds to deliver transport infrastructure, but this is often resource intensive, involving lengthy and complex negotiations that are tied to the governance arrangements of a particular local authority and could be difficult to replicate more widely under the IL proposals. Equally, shorter-term political and more localised priorities could in effect trump longer-term considerations and requirements for London's future growth.

There are also problems with calculating IL on occupation, which the ability to borrow does not resolve by itself. These include adding to developer uncertainty as the chargeable amount is not known until the end of the development process. Timeframes from planning permission to occupation can be lengthy and this may add, rather than detract, from the developer burden. Under CIL, payment is levied at planning permission, but payment becomes due on commencement – this provides certainty both for the developer (in establishing the cost burden) and for authorities to plan for the timely delivery of infrastructure. As such, a continuation of the current practice of collecting on commencement is recommended.

Because the proposed IL is based on a proportion of the sales value, assessments may be required for developments that are not sold, such as rented or leased properties and this could result in disputes where valuers arrive at different outcomes. The proposals make no reference to resolution via an appeals procedure. It is therefore suggested that the existing practice of calculating the charge on floorspace continues, thereby removing the need for valuation. Furthermore, enforcement of non-payment of the IL will be difficult if payment is due on occupation, leaving few sanctions available to authorities with which to pursue debt. Currently, a developer who fails to pay may be in breach of contract (section 106) or may be subject to court proceedings or a stop notice halting works on site (CIL). Payment of the IL on commencement would also ensure parity with CIL collection and enforcement. Notably, collection of CIL will continue for some time beyond any changes to planning obligations. We therefore suggest that levies continue to be collection on commencement rather than on occupations so that any parallel processes are aligned.

In addition, the proposals are not clear who is liable to pay the IL if the developer sells the site prior to occupation. Are charges recorded on the local land charges register? Are payments due as each unit or phase is occupied, and if occupation is staggered is the charge reviewed if values have fluctuated? These questions have resource implications for monitoring and administering collection.

Finally, the proposals are silent on how the IL is calculated under various development scenarios including: phased planning permissions, section 73 planning applications and section 96a permissions. Reference to such permissions is required to avoid inconsistencies in the approach to calculating levy liabilities. Failure to consider these transitional matters from the outset may result in a system that appears simple at face value, but complex to implement due to a lack of clarity.

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

Yes. Under CIL the notification of chargeable development process captures permitted development that is CIL liable, but this places the onus on the developer to notify the charging authority of commencement and this does not always happen. Ideally, permitted development should be captured early on, perhaps at the prior approval stage, so that it can be monitored by the collecting authority.

While there are wider concerns regarding the IL, this proposal will enable developments subject to permitted development rights to be captured. These include the recent amendments to permitted development rights (pertaining to the demolition of commercial and residential buildings and rebuilding as residential, and the upward extension of existing buildings to create new dwellings). Proposals to capture these changes of use are therefore welcomed.

However, it is unclear how a change in value would be calculated if a change of use occurred where a property is not sold. This requires clarification. Also, if the liability for the new levy is established at the point of planning permission but is then levied on occupation based on the final value of a development, how will the levy from section 73, phased developments and section 96a developments be captured? This must be clearly set out.

Similarly, transitional arrangements must not be overlooked. Phased planning permissions and section 73 planning applications often result in a development taking many years to complete. Section 106 agreements are often varied via a Deed of Variation for such developments. It is therefore critical that transitional arrangements are in place that ensure consistency, avoid disruption, and ensure timely infrastructure contributions. More importantly, transitional arrangements are required to help prevent development stalling post implementation due to developer uncertainties associated with the new system, thus avoiding adverse impacts on both the economy in London and the delivery of housing.

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?

No comment

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?

No comment

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?

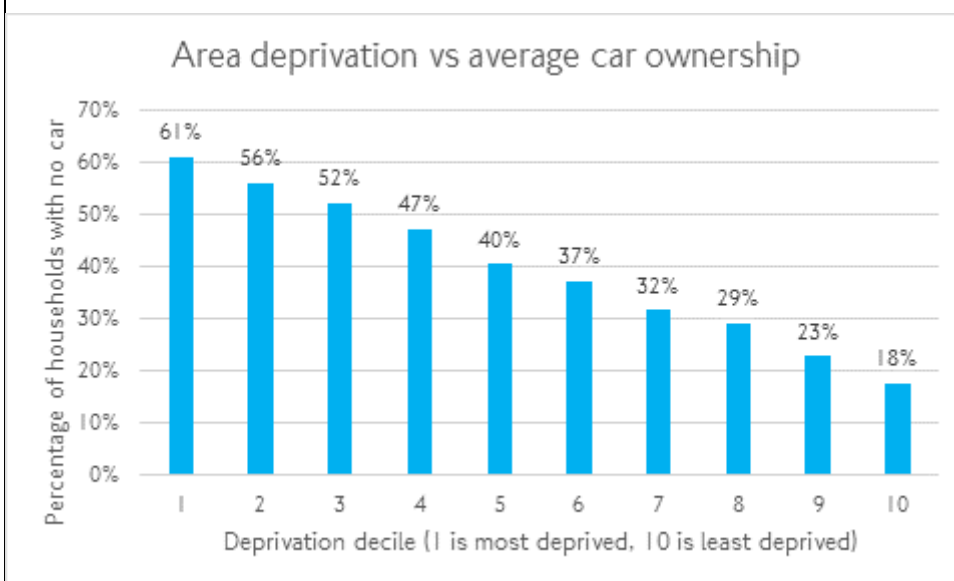
No. The funding shortfall for infrastructure is well documented in the evidence bases supporting local plans and CIL charging schedules. Levy funds should therefore be restricted to infrastructure delivery and a relaxation of this is not supported.

With regard specifically to funding transport infrastructure, some of the key projects enabling growth in London require funding that is predictable over many years, sometimes decades. Planning obligations have been successful in funding Crossrail in London, and any disruption of this would undermine future case-making and the ability to confidently invest in major projects. As such, this funding stream should not be subject to change based on localised, shifting priorities or election cycles.

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

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?

As described above, the proposals pay too little regard to centring development around opportunities for sustainable travel. This will likely result in higher levels of motorised vehicle traffic across the country, including those driving into London, where there are already considerable equity issues relating to the use of road space. Across the UK, disabled pedestrians are around four times more likely to be injured by a motor vehicle⁴ and we have observed a similar disproportionate risk of injury among Black, Asian and Minority Ethnic (BAME) Londoners⁵. The negative effects of motorised traffic,⁶ including poor air quality, noise pollution and severance are disproportionately generated by wealthier Londoners,⁷ but are often concentrated in areas with higher levels of deprivation, where car ownership is lower (see chart below). Across London, car ownership is lower among women, lower income Londoners, BAME Londoners and disabled Londoners, who are more likely to rely on bus services that would be impacted by increased congestion generated by car-reliant development.



Source: TfL analysis of 2011 Census car ownership data and 2019 Indices of Multiple Deprivation data, by lower super output area

⁴ Road injuries in the National Travel Survey: Under-reporting and inequalities in injury risk, Professor Rachel Aldred, 2018

⁵ <http://content.tfl.gov.uk/road-risk-and-vulnerable-road-user-working-paper.pdf>

⁶ https://www.london.gov.uk/sites/default/files/london_plan_evidence_base_-_residential_car_parking.pdf

⁷ Section 4.4. 'Focus on: car ownership in London' Travel in London, report 12