

Government Consultation on the Future Homes and Buildings Standard and Brownfield Land

Date: 26th March 2024

Report of: Chief Planning Officer

Report to: Development Plan Panel

Will the decision be open for call in? Yes No

Does the report contain confidential or exempt information? Yes No

Brief summary

The Government has launched two new consultations relating to: (a) changes to the building Regulations – the Future Homes and Buildings Standard and (b) strengthening planning policy for brownfield development within the National Planning Policy Framework (NPPF).

The Future Homes and Buildings Standard concerns energy efficiency and reducing the carbon emissions of new homes and non-domestic buildings. This consultation sets out the government's plans for achieving a Future Homes Standard and Future Buildings Standard through Building Regulations. Energy efficiency requirements for new homes and non-domestic buildings are set by Part L (Conservation of Fuel and Power) and Part 6 of the Building Regulations 2010 ("the Building Regulations").

The strengthening planning policy for brownfield development consultation seeks views on how the government may strengthen national policy in relation to brownfield land, including through amendments to the 'presumption in favour of sustainable development' within the NPPF.

The Council's responses to both consultations supports the principles of energy efficiency and reducing the carbon emissions of new homes and non-domestic buildings and of maximising the use of brownfield land. The responses support some aspects of the proposals and express concern at some of the proposals. The main areas of concern for the Council are that the Future Homes Standard does not go far enough in reducing carbon or improving energy efficiency and that the proposed policy on encouraging brownfield land development is likely to harm the design and other benefits of development that can be achieved through the planning system.

Recommendations

- a) That members note the contents of this report and the proposed responses to Government and that the Chief Planning Officer consider the points raised before submitting them to government.

What is this report about?

- 1 The Government has launched two new consultations relating to: (a) changes to the Building Regulations – the Future Homes and Buildings Standard and (b) strengthening planning policy for brownfield development within the National Planning Policy Framework (NPPF). The consultations close on the 27th March and the 26th March 2024 respectively.
- 2 The Future Homes and Buildings Standard concerns energy efficiency and reducing the carbon emissions of new homes and non-domestic buildings. This consultation sets out the government's plans for achieving a Future Homes Standard and Future Buildings Standard through Building Regulations. Energy efficiency requirements for new homes and non-domestic buildings are set by Part L (Conservation of Fuel and Power) and Part 6 of the Building Regulations 2010 ("the Building Regulations").
- 3 The strengthening planning policy for brownfield development consultation seeks views on how the government may strengthen national policy in relation to brownfield land, including through amendments to the 'presumption in favour of sustainable development' within the NPPF.

Future Homes and Buildings Standard

- 4 In December 2023, the government launched a consultation to set out their plans for achieving the Future Homes Standard and Future Buildings Standard. Through this consultation, the Department for Levelling Up, Homes and Communities is seeking views on requirements for energy efficiency and heating in new homes and non-domestic buildings.
- 5 In this consultation, the government is seeking views on proposals to:
 - ensure the construction of new buildings aligns with the country's net zero target, by focusing on improving heating, hot water systems and reducing heat waste
 - introduce low carbon alternatives, such as solar PV panels and heat pumps to replace current technologies
 - select between two domestic notional building options. Option 1 balances higher additional build costs against lower consumer bills. Option 2 offers lower additional build costs but is less beneficial in terms of consumer bills, although these would still be lower than bills in typical existing homes
 - all space heating and hot water demand should be met through low-carbon sources
 - standards to protect consumers from high bills and reduce emissions as far as practical but not change minimum standards for fabric
 - enable new homes and non-domestic buildings to be connected to existing and new heat networks
 - adopt a new Home Energy Model: Future Homes Standard assessment as the approved calculation methodology to demonstrate compliance of new homes with the Future Homes Standard, replacing the existing approach
 - seek views regarding transitional arrangements. They provide two time frames options for laying the regulations and them coming into force.
- 6 The government state that as a result of the FHS a domestic property built in 2025 would have 75-80% lower carbon emissions than one built in 2013 and be 'zero carbon ready' with no retrofit required to benefit from the decarbonisation of the electricity grid and the electrification of heating. Fossil fuel heating will be banned in new homes with a shift in reliance on low carbon heating (heat pumps) and heat networks.

Strengthening planning policy for brownfield development

- 7 The government is consulting on mechanisms by which local planning authorities are encouraged to give 'significant weight to the benefits of delivering as many homes as possible' when deciding applications on brownfield land. The press release accompanying the consultation explains the government's intention to "turbo charge" building on brownfield land. Amendments include proposals to national policy in the NPPF, and changes to the way the Housing Delivery Test operates in the 20 towns and cities subject to the urban uplift (which includes Leeds); including introducing a new presumption in favour of sustainable development on brownfield land in some circumstances.
- 8 The government wants to amend the NPPF to make clear that "significant weight" should be given to all housing delivery, but "especially" that on brownfield sites. According to the consultation document, the government wants "to make clear that when considering planning applications, local planning authorities should give significant weight to the benefits of delivering as many homes as possible, especially where this involves land which is previously developed".
- 9 It proposes that councils should be "less bureaucratic and more flexible in applying policies that halt house building on brownfield land", as long as any new housing provides "acceptable living standards". The consultation proposes a change to NPPF to make clear that local authorities "should take a flexible approach in applying planning policies or guidance relating to the internal layout of development in these circumstances, where they would otherwise inhibit making the most efficient use of a site".
- 10 The consultation seeks views on the government's proposal to require the 20 most populous areas in England to apply a "presumption in favour of sustainable development in respect of previously developed land". The consultation therefore proposes an amendment to the NPPF which would introduce a new housing delivery test for those authorities required to apply a 35% "urban uplift" when assessing their local housing need. In cases where authorities score 95% or less of the government's annual housing delivery test (as averaged across a three-year period) there will be a presumption in favour of sustainable development on brownfield land. In other words, as currently proposed, if Leeds does not deliver more than 95% of 4,080 residential units per annum (over a three-year rolling period) the Local Plan will be given less weight in decision-making on brownfield sites, which will particularly affect policies that relate to issues such as design and space standards. For context, that amount of housing has not been delivered in Leeds since the end of mass Council house building in the 1980s (the highest since being 3,828 in 2008/09). Whilst this would only affect development on brownfield land, this proposed national policy change is a significant increase from the current 75% of the housing requirement.

What impact will this proposal have?

- 11 The Council's consultation responses are attached as **Appendix 1** for the Future Homes Standard and **Appendix 2** for the Strengthening planning policy for brownfield development.

Future Homes and Buildings Standard

- 12 In sum the Council makes the following points:

- The proposed Future Homes and Buildings Standard is not sufficiently ambitious to meet the Council's aspirations for net zero development, as it relies upon the National Grid being entirely decarbonised before future homes and buildings can be considered 'net zero'.

- The proposed standard represents a missed opportunity to increase the energy efficiency of new buildings, with evidence suggesting that the proposed national standard is already being frequently exceeded by proposed developments in Leeds.
- The Council disagrees with the proposed metrics for assessing building performance. The measures proposed, such as Target Emissions Rate (TER) have been shown to be vulnerable to what is known as the 'Performance Gap' where the energy performance of a building in operation is much poorer than the original design predictions, leading to much higher building emissions than first anticipated.
- In contrast, the Council's preference is for the Energy Use Intensity (EUI) metric to be used instead, as this is considered by the industry to be a more accurate reflection of energy use.
- The draft response supports the Government's suggestion to apply standards to dwellings created through material changes of use.
- The draft response details some of the current issues the Council is experiencing regarding the uptake of connections to the District Heating Network, particularly relating to the inaccurate carbon factors assumed in the current operation of Part L and the impacts this has on development design choices.

13 At the time of writing, the proposed response to the Future Homes Standard is being reviewed and supplemented by colleagues from Council Housing Growth, Building Control and Environmental Health. Where possible, any changes to the attached draft response will be detailed verbally at the meeting of Development Plan Panel. These additional responses will largely relate to questions that currently have 'no comment' responses attached to them.

Strengthening planning policy for brownfield development

14 In sum the Council makes the following points:

- It is considered that the NPPF already provides sufficient weight to the delivery of housing and this additional guidance is not needed
- Leeds, like many other core cities, already delivers on brownfield land (over 80% of all housing development in the past 10 years has been on brownfield land) so it is not clear what problem this policy is seeking to address
- Nationally described space standards are currently adopted by many local planning authorities including Leeds. These policies alongside others on design and amenity are intended to protect the amenity of residential occupiers, and additional flexibility in the NPPF with a heightened weight given to housing approach could have unintended negative impacts upon the health and wellbeing of future residents
- There are already sufficient policies and checks and balances within national guidance to steer development to brownfield land as part of a plan-led approach. In deploying a "tilted-balance" this approach could threaten the achievement of sustainable development because other important policy outcomes would be reduced e.g. on environment including flood risk, design quality, delivery of affordable housing, community infrastructure, adequate public transport, low carbon and energy efficiency measures.
- In extending the way in which the "tilted balance" could be used the consultation presumes that brownfield sites need less planning whereas in the experience of Leeds these sites often need more planning to bring forward in a sustainable manner including on a range of issues such as flood risk, layout, scale and massing and design.

How does this proposal impact the three pillars of the Best City Ambition?

Health and Wellbeing

Inclusive Growth

Zero Carbon

- 15 The Building regulations set minimum standards for building outside of the planning system. The NPPF sets national policy within which the Council must prepare its Local Plan. They both set out policies which are relevant to each of the Council's three pillars and the Council's Local Plan provides weight to them depending on their local importance.

What consultation and engagement has taken place?

Wards affected:

Have ward members been consulted? Yes No

- 16 This report is to be noted. No Council consultation has taken place.

What are the resource implications?

- 17 There are no specific resource implications to this report.

What are the key risks and how are they being managed?

- 18 No issues of risk are identified within the recommendations in this report.

What are the legal implications?

- 19 The consultations in themselves do not yet raise legal issues. However, if they were to be brought forward in the planning system this will raise a number of specific legal issues including a need to amend the material weight given to specific parts of building regulations and national policy on plan-making and decision taking. These matters would have implications for the Council emerging Local Plan Update and Leeds Local Plan 2040 and would also need to be assessed on a case by case basis to align plan-making and decision-making with the amendments to ensure sound legal decision making.

Options, timescales and measuring success

What other options were considered?

- 20 There are no options within this report.

How will success be measured?

- 21 Success will be measured through the willingness of government to take on board and address the concerns raised in these responses..

What is the timetable and who will be responsible for implementation?

- 22 The consultations close at the end of March and DLUHC are responsible for the next steps.

Appendices

- None

Background papers

- None

Appendix 1 – Draft response to the Future Homes and Buildings Standard (with Council preferences to proposed options set out in *bold italics*, and written commentary provided in *italics*)

Question 7.

Which option for the dwelling notional buildings (for dwellings not connected to heat networks) set out in The Future Homes Standard 2025: dwelling notional buildings for consultation do you prefer?

- a. Option 1 (higher carbon and bill savings, higher capital cost)**
- b. Option 2 (lower carbon savings, increase in bill costs, lower capital cost)

Question 8.

What are your priorities for the new specification? (select all that apply)

- low capital cost
- lower bills**
- carbon savings**
- other (please provide further information)

Please provide any additional comments to support your view on the notional building for dwellings not connected to heat networks.

While all the three options are important, it is the lower bills for the end-user and carbon savings for the planet that have priority. A lower capital cost would assist economic development, however addressing fuel poverty and climate change holds precedence. Unfortunately, the two options presented here are not the ones that champion the importance of lower energy bills. The older consultations had three options which promised lower bills than the ones presented above. In the absence of a better alternative, we must go with the lesser objectionable option which is the first one.

Additionally, interventions for a healthy indoor air quality was another expectation from the new specifications. Yet again the final options presented disappoint on that front. Both options in the consultation require a move to a heat-pump-based heating system. However, on its own, this move will not reduce energy bills or improve occupant comfort. They should have been accompanied by more stringent fabric efficiency standards or other passive energy use reduction measures. Relying on grid decarbonization alone is a high-risk approach, akin to putting all the eggs in one basket, which goes against 'variety' which is the cornerstone of sustainability.

We would echo the comments of fellow Core Cities: The notional building fabric specification being largely unchanged from Part L 2021 and not including MVHR is a missed opportunity to reduce bills and minimise upstream energy infrastructure and generation costs. Only options poorer than the earlier FHS consultation have been included in the consultation and impact assessment. Therefore, it is not possible to judge the assertion that further improvements in energy efficiency do not deliver value. The impact assessment does not consider the impact different specifications has on electricity infrastructure costs. There is also no consideration of how the standards relate to the sector emissions trajectory in the 6th Carbon Budget - the standards in the FHS are significantly lower than recommended by the Climate Change Committee in their 2019 UK housing: Fit for the future?

The option without PV would mean not making use of the valuable resource of roof space for renewable electricity generation. The amount of PV in the Option 1 notional specification could result in over 10GW of solar being installed by 2050, approximately 3% of the total generation capacity in the National Grid Future Energy Scenarios in 2050. This PV would have to be delivered elsewhere,

potentially taking up valuable land that could be used for other purposes or be a significant distance from demand.

The notional building specification is worse than recommendations from industry wide organisation such as RIBA, UK Green Building Council, CIBSE and the UK Net Zero Carbon Building Standard.

Question 9.

Which option for the dwelling notional buildings for dwellings connected to heat networks set out in The Future Homes Standard 2025: dwelling notional buildings for consultation do you prefer?

a. Option 1 (higher carbon and bill savings, higher capital cost)

b. Option 2 (lower carbon savings, increase in bill costs, lower capital cost)

Please provide any additional comments on the specification of the heat network in the notional building.

Question 10.

Which option do you prefer for the proposed non-domestic notional buildings set out in the NCM modelling guide?

a. Option 1

b. Option 2

Question 11.

What are your priorities for the new specification?

low capital cost

lower bills

carbon savings

other (please provide further information)

Please provide additional information to support your view on the proposed non-domestic notional buildings set out in the National Calculation Methodology modelling guide.

Both the options present a lost opportunity for the non-domestic buildings to deliver significant carbon savings. Reduction of carbon and energy is the driving force behind most of the non-domestic built environment. A tighter fabric efficiency approach in addition to factoring in the embodied carbon emissions, at least for this sector would have been much more prudent. Much of current proposed development is already performing better than the standards being set by building regulations by virtue of other commercial drivers. Going well beyond the current fabric efficiency standards would have provided the much-needed push to those developments that are still not focussing on the socio-environmental aspect of sustainability.

Some specific suggestions to be built into the current option are:

- Tighten air permeability standards to 3m³/m².hr at 50Pa

- Introduce energy use intensity targets covering regulated and unregulated energy

- EUI targets should be developed and adopted rapidly for each building type scheme.

-- Make mandatory in-use performance the basis for compliance with Part L in relation to regulated energy, starting with requirements for the monitoring and disclosure of in-use performance in all buildings over 1,000m²

- Introduce requirements for all developments to assess and disclose whole life carbon impacts, and phase in targets for reductions, starting with larger developments.

Regardless of the decarbonisation of the grid, the above approach leads to a long-term prudent approach to limited electricity use.

Question 12.

Do you agree that the metrics suggested above (TER, TPER and FEE) be used to set performance requirements for the Future Homes and Buildings Standards?

- a. Yes
- b. Yes, and I want to provide views on the suitability of these metrics and/or their alternatives
- c. No, I think delivered energy should be used
- d. No, I think FEE should be changed
- e. No, for another reason (please provide justification)**

We do not agree with using TER, TPER or TFEF and are also against using primary energy as a factor in any metric.

The Target Emissions Rate (TER) is a measure of the reduction of carbon emissions rather than reduction of energy demand. It is not a measure of energy efficiency therefore it does not give a full picture of the overall consumption of energy in a house. Moreover, it does not consider unregulated energy use which is becoming a substantial percentage of the energy demand with the reduction in operational energy. The TER compares a home against a notional building, and this makes it very difficult to understand how it is performing and whether it could be more energy efficient. Using a notional building has fundamental limitations, in particular around not encouraging the consideration of passive design decisions such as building form and servicing strategies. These are very important shortcomings if energy consumption and carbon reductions are to be achieved in real terms. It is vulnerable to the 'performance gap', whereby the energy performance of a building in operation is much poorer than the original design predictions, leading to much higher building emissions than first anticipated.

Energy Use Intensity (EUI) taking into account both regulated (heating, hot water, ventilation, cooling, lighting, and auxiliary uses) and unregulated energy demand is a more accurate metric. This when balanced with energy provision using a low or zero carbon energy source would be an appropriate measure of a truly net zero carbon building. If we need to be truly net zero ready, then we need a metric that is easily understandable by everyone and that does not discount that which is more challenging to quantify.

EUI is a metric that can be estimated at the design stage (assuming standard conditions of use) and very easily monitored in-use as energy bills are based on kWh of energy used by the building. This metric can be used to compare buildings of a similar type and is far more practical for the construction industry and consumers to understand. In addition to the EUI metric, a space heating demand metric should be used not just as an indicator of fabric energy efficiency. Using a space heating demand metric in addition to EUI would be a more transparent, technologically agnostic and a method that eliminates locking out future innovations, such as is currently proposed by mandating heat pumps.

Another concern is the exclusion of embodied carbon from the scope of the consultation. While this is a difficult area to set targets for all building types, the consultation could have set a requirement for all buildings to undertake an assessment and submit the results.

Question 13.

Do you agree with the proposed changes to minimum building services efficiencies and controls set out in Section 6 of draft Approved Document L, Volume 1: Dwellings?

- a. Yes
- b. Yes, and I want to provide additional suggestions or information to support my view

c. No (please provide justification)

Question 14.

Do you agree with the proposal to include additional guidance around heat pump controls for homes, as set out in Section 6 of draft Approved Document L, Volume 1: Dwellings?

a. Yes

b. Yes, and I want to provide additional suggestions or information to support my view

c. No (please provide justification)

Question 15.

Do you agree that operating and maintenance information should be fixed to heat pump units in new homes?

a. Yes

b. Yes, and I want to provide additional suggestions or information to support my view

c. No (please provide justification)

Fixing instructions to units is helpful, but occupants and landlords should also have the information supplied electronically in home user guides. This should include a link to online information, which can be updated if necessary. A weblink and QR code should be included in the hard copy that is left in the home.

Question 16.

Do you think that the operating and maintenance information set out in Section 10 of draft Approved Document L, Volume 1: Dwellings is sufficient to ensure that heat pumps are operated and maintained correctly?

a. Yes

b. Yes, and I want to provide additional suggestions or information to support my view

c. No (please provide justification)

No, the guidance needs to be clear that the information must be given to the owner in both hard copy and digitally, with instructions on how to pass it on to the occupant where relevant (i.e., when the property is let to tenants).

Material should be road-tested on the public before use, to ensure that it is easily understood by everyone. People moving into a new home have a lot to take in, so a simple user-guide is essential, with more detailed information available as and when needed.

Question 17.

Do you agree with the proposed changes to Section 4 of draft Approved Document L, Volume 1: Dwellings, designed to limit heat loss from low carbon heating systems?

a. Yes

b. Yes, and I want to provide additional suggestions or information to support my view.

c. No (please provide justification)

We also propose updating guidance on the sizing of domestic hot water storage vessels. This is set out in Section 5 of draft Approved Document L, Volume 1: Dwellings.

Question 18.

Do you agree with the proposed sizing methodology for hot water storage vessels for new homes?

- a. Yes
- b. Yes, and I want to provide additional suggestions or information to support my view.
- c. No (please provide justification)

No comment

Question 19.

Do you agree with the proposed changes to minimum buildings services efficiencies and controls set out in Section 6 of draft Approved Document L, Volume 2: Buildings other than dwellings?

- a. Yes
- b. Yes, and I want to provide additional suggestions or information to support my view.
- c. No (please provide justification)

Question 20.

Do you agree with the proposed guidance on the insulation standard for building heat distribution systems in Approved Document L, Volume 2: Buildings other than dwellings?

- a. Yes
- b. Yes, and I want to provide additional suggestions or information to support my view
- c. No (please provide justification)

Question 21.

Do you agree that the current guidance for buildings with low energy demand which are not exempt from the Building Regulations, as described in Approved Document L, Volume 2: Buildings other than dwellings should be retained without amendment?

- a. Yes
- b. Yes, and I want to provide additional suggestions or information to support my view
- c. No (please provide justification)

Question 22.

Do you agree that lifts, escalators and moving walkways in new buildings (but not when installed withing a dwelling) should be included in the definition of fixed building services?

- a. Yes
- b. Yes, and I want to provide additional suggestions or information to support my view
- c. No (please provide justification)

Question 23.

Do you agree with the proposed guidance for passenger lifts, escalators and moving walkways in draft Approved Document L, Volume 2: Buildings other than dwellings?

- a. Yes
- b. Yes, and I want to provide additional suggestions or information to support my view
- c. No (please provide justification)

Question 24.

Do you have any further comments on any other changes to the proposed guidance in draft Approved Document L, Volume 2: Buildings other than dwellings?

- a. Yes (please provide comments)
- b. No**

Question 25.

Should we set whole-building standards for dwellings created through a material change of use (MCU)?

a. Yes

Yes. To be ready for Net-Zero it is important that all dwellings achieve a higher energy efficiency standard and in turn lower carbon emissions. Whilst it may be more challenging to carry this out in a dwelling created through a material change of use than a new build dwelling, it is considerably easier than having to retrofit at a later date. The Standard must ensure that building practices are in place to negate the need for further retrofit in the future, ensuring that all homes are future ready and affordable.

- b. No, an elemental standard should be set with an option to use a notional building if the designer prefers.
- c. No, for another reason (please provide justification)

Question 26.

Should the proposed new MCU standard apply to the same types of conversion as are already listed in Approved Document L, Volume1: Dwellings?

a. Yes

b. No, standards should also apply to non-dwelling accommodation e.g., student or patient accommodation, care homes, and hotels.

c. No, the standard should be clearer that it applies to houses of multiple occupation (please recommend specific building types you think the standard should apply to and provide justification)

The new MCU standard should apply to any conversion, regardless of the building type, if the intention is to become a domestic dwelling.

- d. No, for another reason (please provide justification)

Question 27.

Should different categories of MCU buildings be subject to different requirements?

a. Yes

b. No (please provide justification)

For ease the requirements should be the same across different categories.

Question 28.

Which factors should be taken into account when defining building categories? (check all those that apply)

- height of the building, i.e., low versus mid- to high-rise buildings**
- floor area of the building**
- the expertise of those carrying out the work
- whether the conversion is a part- or whole-building conversion**

Other (please state)

Please provide additional information to support your view.

Use type & hours of operation

Question 29.

Do you agree with the illustrative energy efficiency requirements and proposed notional building specifications for MCU buildings?

a. Yes

b. No

Question 30.

If you answered no to the previous question, please provide additional information to support your view. Select all that apply. The requirements are:

too stretching

not stretching enough

not economically viable

not practical/technically feasible

other (please provide further details)

Question 31.

Do you agree with using the metrics of primary energy rate, emission rate and fabric energy efficiency rate, if we move to whole dwelling standards for MCU buildings?

a. Yes

b. Yes, and I want to provide additional suggestions or information to support my view

b. No (please provide justification)

We suggest using a combination for EUI and space heating for MCU as well.

Question 32.

Under what circumstances should building control bodies be allowed to relax an MCU standard?

a. None, building control bodies should not be able to relax MCU standards

b. Building control bodies should be able to relax under the following circumstances (please provide further details)

Building control bodies that are not privately owned should be able to relax MCU standards.

c. Building control bodies should be able to relax under the following circumstances (please provide further details)

Question 33.

Do you have views on how we can ensure any relaxation is applied appropriately and consistently?

Please select all that apply:

there should be guidance on circumstances where relaxation of the notional standard may be appropriate

there should be monitoring of how relaxation is applied

only formal relaxation or dispensation through the local authority should be possible

other (please provide further details)

Question 34.

Should a limiting standard be retained for MCU dwellings?

a. Yes (please provide further details)

Limiting standards for elements need to be retained when a whole building MCU standard is set and there are possibilities for exceptions to these standards in order to ensure a basic level of quality check in the conversion.

b. No, it is too strict.

c. No, it is not strict enough.

d. No, there is not enough information.

e. No, for another reason (please provide further details)

Question 35.

If a limiting standard is retained, what should the limiting standard safeguard against?

Please select all that apply:

risk of moisture, damp and mould

high energy demand and energy bills

other (please provide further details)

Question 36.

Do you wish to provide any evidence on the impacts of these proposals including on viability?

a. Yes (please provide evidence)

As part of Leeds City Council's Core Strategy EN1 we are requiring an uplift of 20% to the target emission rates in the Building Regulations Part L 2021 since May 2023. It has been agreed that if a development presents a case of it becoming unviable due to this policy the council will accept lowering these standards. Till now there has been no application which has deemed this policy unviable. Given the FHS is not a percentage uplift on the previous Building Regulations with the fabric standards remaining more or less the same, the absence of a viability claim is evidence enough for the impact of option 1 on viability.

b. No

Question 37.

Do you agree that a BREL report should be provided to building control bodies if we move to energy modelling to demonstrate compliance with MCU standards?

a. Yes

b. Yes, and photographic evidence is needed.

c. Yes, and I'd like to provide further information.

d. No (please provide justification)

Question 38.

Do you agree that consumers buying homes created through a material change of use should be provided with a Home User Guide when they move in?

- a. Yes
- b. Yes, and I'd like to provide further information.**

A physical as well a digital copy should be provided so that it is widely accessible.

- c. No (please provide justification)

Question 39. Do you agree that homes that have undergone an MCU should be airtightness tested?

- a. Yes**
- b. Yes, and I'd like to provide further information.
- c. No (please provide justification)

Question 40.

Do you think that we should introduce voluntary post occupancy performance testing for new homes?

- a. Yes
- b. Yes, and I'd like to provide further information.**
- c. No (please provide justification)

Considering the poor uptake of voluntary real performance measures in the Energy Company Obligation (ECO4), it is disappointing to see the Government proposing that post-occupancy performance testing remains voluntary. Carrying out post-build occupancy performance testing has some significant challenges as it is very difficult to standardise a methodology with so many variables and determine against what baseline it will be tested. A wholly voluntary approach will not bring the necessary protection that the consumer needs from homes being built to a sub-standard.

Post occupancy performance testing should be mandatory. However, this should go hand in hand with clear guidance and training to carry them out. Data obtained as a result of these tests should be put to further advance the quality of the built environment. Further evidence-based research needs to be carried out before this testing can be made mandatory. They can be made voluntary as part of a transitional period.

Question 41.

Do you think that the government should introduce a government-endorsed Future Homes Standard brand? And do you agree permission to use a government-endorsed Future Homes Standard brand should only be granted if a developer's homes perform well when performance tested? Please include any potential risks you foresee in your answer.

- a. Yes
- b. Yes, and I want to provide additional suggestions or information.**

There are merits to a standardised approach. It could be tied to existing standards like the Home Quality Mark and BREEAM. Creating a new brand to a market already inundated with multiple standards would become confusing and onerous. If something akin to a wrapper used in the home energy model for FHS can be developed that could adapt itself to the many building standards already out there it would be much more efficient.

- c. Yes, but I think there are risks associated with introducing a government-endorsed brand
- d. No (please provide justification)

Question 42.

Do you agree with the proposed changes to Approved Document F, Volume 1: Dwellings to improve the installation and commissioning of ventilation systems in new and existing homes?

- a. Yes**
- b. Yes, and I'd like to provide further information.
- c. No (please provide justification)

Question 43.

Do you agree with the proposal to extend Regulation 42 to the installation of mechanical ventilation in existing homes as well as new homes?

- a. Yes**
- b. Yes, and I'd like to provide further information.
- c. No (please provide justification)

Question 44.

Do you think the guidance on commissioning hot water storage vessels in Section 8 of draft Approved Document L, Volume 1: Dwellings is sufficient to ensure they are commissioned correctly?

- a. Yes**
- b. Yes, and I'd like to provide further information.
- c. No (please provide justification)

Question 45.

Are you aware of any gaps in our guidance around commissioning heat pumps, or any third-party guidance we could usefully reference?

- a. Yes (please provide further details)
- b. No

No comment

Question 46.

Do you think the guidance for commissioning on-site electrical storage systems in Section 8 of draft Approved Document L, Volume 1: Dwellings is sufficient to ensure they are commissioned correctly?

- a. Yes**
- b. Yes, and I'd like to provide further information.
- c. No (please provide justification)

Question 47.

Do you agree with proposed changes to Approved Document L, Volume 1: Dwellings and Approved Document F, Volume 1: Dwellings to(a) clarify the options for certifying fixed building services installations and(b) set out available enforcement options where work does not meet the required standard?

- a. Yes**
- b. Yes, and I'd like to provide further information.
- c. No (please provide justification)

Question 48.

Do you think the additional information we intend to add to the Home User Guide template, outlined above, is sufficient to ensure home occupants can use their heat pumps efficiently?

- a. Yes
- b. Yes, and I'd like to provide further information.**

The guidance needs to explain the basic premise of the heat pump and how does outside temperature affect the efficiency of an air source heat pump.

- c. No (please provide justification)

Question 49.

If you are a domestic developer, do you use, or are you planning to use, the Home User Guide template when building homes to the 2021 uplift? Please give reasons in your response.

- a. Yes (please provide further details)
- b. No (please provide further details)

No comment

Question 50.

Do you have a view on how Home User Guides could be made more useful and accessible for homeowners and occupants, including on the merits of requiring developers to make guides available digitally? Please provide evidence where possible.

- a. Yes, (please provide further details)**

We would like to see a variety of formats for the Home User Guide, recognising the different needs of different occupants and need to ensure that information can be updated and passed from one occupant to another. For rented housing there is a need for both the occupant and the landlord to have the information. Formats should include:

- *Fixing instructions to units and other places within the home.*
- *Electronic information (e.g., a PDF) supplied to both occupant and landlord.*
- *A list of Maintenance Companies to approach*
- *A weblink and QR code for updateable online information. Centralised storage would protect against developers going out of business.*
- *Video formats for people to watch and learn how to use the features of their home.*

- *A face-to-face discussion/handover between the housebuilder and the owner (and for rented housing, between landlord and each new tenant moving in). This means that sales teams need to be fully briefed on the operation of the home.*

b. No

Question 51.

Do you think that there are issues with compliance with Regulations 39, 40, 40A and 40B of the Building Regulations 2010? Please provide evidence with your answer.

a. Yes (please provide justification), We are aware of issues with enforcement and non-compliance.

b. No (please provide justification)

No comment

Question 52.

Do you think that local authorities should be required to ensure that information required under Regulations 39, 40, 40A and 40B of the Building Regulations 2010 has been given to the homeowner before issuing a completion certificate?

a. Yes

b. Yes, and I'd like to provide further information.

c. No (please provide justification)

Question 53.

Do you agree that new homes and new non-domestic buildings should be permitted to connect to heat networks, if those networks can demonstrate they have sufficient low-carbon generation to supply the buildings' heat and hot water demand at the target CO2 levels for the Future Homes or Buildings Standard?

a. Yes

b. Yes, and I'd like to provide further information.

We support the move away from fossil fuels to electricity-based systems, such as heat pumps. However, it is vital that the use of such technologies be underpinned by a robust Fabric Energy Efficiency Standard (FEES) – otherwise demand on the grid and household energy bills will be unnecessarily high. The methodology must also be peer reviewed by a carbon expert independent from heat network interests.

c. No (please provide justification)

Question 54.

Do you agree that newly constructed district heating networks (i.e., those built after the Future Homes and Buildings Standard comes into force) should also be able to connect to new buildings using the sleeving methodology?

a. Yes

b. Yes, and I'd like to provide further information.

c. No (please provide justification)

No comment

Question 55.

Do you agree with the proposed guidance on sleeving outlined for Heat Networks included in Approved Document L, Volume 1: Dwellings and Approved Document L, Volume 2: Buildings other than dwellings?

- A. Yes
- b. Yes, and I'd like to provide further information.
- c. No (please provide justification)

No comment

Question 56.

Do you agree that heat networks' available capacity that does not meet a low carbon standard should not be able to supply heat to new buildings?

a. Yes

We agree with the principle of only low carbon networks being able to supply heat to new buildings, if this is based on the overall carbon factor of the network, rather than excluding networks which rely on fossil fuel sources for back up and peaking.

- b. No (please provide further details regarding how this unused higher carbon capacity should be accounted for)

Question 57.

What are your views on how to ensure low-carbon heat is used in practice?

There are two areas of policy/heating strategy which will hinder the ability of low carbon heat networks to meet their full potential, in terms of number of buildings connected and as such the amount of low carbon heat supplied.

Part L

The first of these is the Part L assessment, which does not properly reflect the carbon factor of low carbon district heating networks in its latest update. The issue being as below, as identified by developers the Leeds PIPES project are in discussions with:

- *The latest update to Part L has introduced a tick button for connecting to an existing district heating network*
- *If you tick the box, it matches the carbon factor of the notional building to the DHN carbon factor, effectively meaning there is no carbon benefit to connecting to the network*
- *When you tick the box for this purpose, the developments often fail the assessment*
- *The definition of existing district heating network appears to be that it's a new network until any building connects to it, so technically no network can be classed as 'new' and all will be 'existing'.*
- *Without the box ticked using the same inputs, the DHN connection passes the assessment with flying colours beyond what the counterfactual (in these cases ASHP) can achieve*
- *Sites ticking the box need a significant amount of PV to be able to pass, to the extent that the PV required would be larger than the total available space on the roof(s)*

As such, district heating is performing artificially poorly without justification in these assessments. Part L forms a critical part of local planning decisions and as such, it's envisioned that this will be an issue for multiple other heat networks around the country with regard to securing connections.

NABERS

We understand that the NABERS energy rating system is starting to be used more widely in the UK, by developers of new office buildings. We see the system as fundamentally flawed in how it deals with district heating.

The methodology assesses a site based purely on the energy used on site, including for heating and hot water. The system with the lowest modelled MWh consumption will be the one chosen by the developer to proceed with, as it will have the best NABERS rating.

For ASHPs, their coefficient of performance is taken into account for these calculations as the generation is taking place on site. Typically, this is between 2.5 and 3. For district heating, the coefficient of performance is effectively a network's Z factor. For Leeds PIPES this is currently 6.13. However, as the generation takes place off site, there is no Coefficient of Performance (COP) benefit applied to district heating in the methodology. As such, it is impossible for a DH system to best an ASHP counterfactual, unless the COP of the ASHP is unrealistically low.

NABERS is a tool we are only starting to see used recently, however it could seriously inhibit the ability of heat networks to connect to new office developments as it starts to be used more widely.

Question 58.

Are there alternative arrangements for heat networks under the Future Homes and Building Standards that you believe would better support the expansion and decarbonisation of heat networks?

No comment

Question 59.

Do you agree that the draft guidance provides effective advice to support a successful smart meter installation in a new home, appropriate to an audience of developers and site managers?

a. Yes

b. No

If not, please provide suggestions for how the draft guidance could be improved. Please provide evidence and sources for your statements where appropriate.

Question 60.

Do you agree that voluntary guidance referenced in draft Approved Document L, Volume 1: Dwellings is the best approach to encouraging smart meters to be fitted in all new domestic properties?

a. Yes

b. No

If not, is there anything else you think the government should be doing to ensure that smart meters are fitted in all new build properties?

Question 61.

Do you agree that it should be possible for Regulation 26(CO2 emission rates) to be relaxed or dispensed with if, following an application, the local authority or Building Safety Regulator concludes those standards are unreasonable in the circumstances?

- a. Yes
- b. No (please provide justification)**

Question 62.

If yes to previous question], please share any examples of circumstances where you think it may be reasonable for a local authority to grant a relaxation or dispensation?

Question 63.

Do you think that local authorities should be required to submit the applications they receive, the decisions they make and their reasoning if requested?

- a. Yes
- b. Yes, and I'd like to provide further information.
- c. No (please provide justification)

No comment

Question 64.

Are there any additional safeguards you think should be put in place to ensure consistent and proportionate use of this power?

No comment

Question 65.

Do you agree that Part L1 of Schedule 1 should be amended, as above, to require that reasonable provision be made for the conservation of energy and reducing carbon emissions?

- a. Yes
- b. Yes, and I'd like to provide further information
- c. No (please provide justification)**

The amendment to the regulations will mean that compliance with Schedule 1 of the Building Regulation could mean meeting a standard whose focus is emissions reduction rather than reducing energy use. If we want to move towards true Net Zero emissions, either we should factor in embodied carbon as well or use reduction in energy as the focal metric.

Question 66.

Do you agree that regulations 25A and 25B will be redundant following the introduction of the Future Homes and Buildings Standards and can be repealed?

- a. Yes
- b. Yes, and I'd like to provide further information.
- c. No (please provide justification)**

• We do not agree that regulations 25A and 25B will become redundant once this version of the Future Homes and Buildings Standards have been introduced as they do not go far enough.

• *We disagree with the consultation statement that with these standards homes and non-domestic buildings will be 'zero-carbon ready', meaning that no further work will be necessary to ensure they have zero carbon emissions as the electricity grid continues to decarbonise.*

Question 67.

Do you agree that the Home Energy Model should be adopted as the approved calculation methodology to demonstrate compliance of new homes with the Future Homes Standard?

- a. Yes**
- b. Yes, and I'd like to provide further information.
- c. No (please provide justification)

• *The Home Energy Model represents a significant step forward compared with SAP.*
• *If development efforts continue it should be able to predict space heating demand, energy use, renewable energy generation and demand flexibility more accurately than SAP. In-use performance measurement and fabric efficiency should be the norm to ensure there is no fabric performance gap, and a robust method of guaranteeing high heat pump efficiency is required (e.g. with a heat meter to monitor SCOP).*

Question 68.

Please provide any comments on the parameters in the notional building.

If this notional building is to truly represent zero carbon ready homes, then backstops should be tightened from the current proposed level and real performance fabric measurement should become the norm.

The Target Fabric Energy Efficiency rate (FEE) should be improved to include U values and air tightness in line with current good practice i.e., at 3m³/m².hr at 50Pa; a level which is already widely delivered across the market.

There are issues with how the method of using a notional building does not do justice to the carbon emissions saved using heat pumps and heat networks.

Question 69.

Minimum standards already state that heat pumps should have weather compensation and we would like to understand if stakeholders think this is enough to ensure efficiency of heat pumps under the varying weather conditions across England. Should the notional building use local weather?

- a. Yes**
- b. No

Yes, using local weather will ensure efficient heat pump operation and sizing which are essential for delivering homes that are low-cost to run, low-carbon, warm, and comfortable.

The Government must ensure up-to-date data is available on localised overheating risk (including for, and factored in to, planning) and underpins Dynamic Thermal Modelling e.g., London TM 49 weather data uses more up to date figures than TM 59.

Please provide any evidence you have on the unintended consequences that could arise as a result of using local weather in the notional building. If possible, please comment on the impact on the construction industry in terms of design and building feasibility. We also welcome views on whether weather compensation is sufficient to ensure heat pump efficiency.

Question 70.

Do you agree with the revised guidance in The Future Homes Standard 2025: dwelling notional buildings for consultation no longer includes the average compliance approach for terraced houses?

- a. Yes**
- b. No

Question 71.

Do you agree with the revised guidance in Approved Document L, Volume 1: Dwellings which states that you should not provide a chimney or flue when no secondary heating appliance is installed?

- a. Yes**

This would help discourage the installation of wood burners.

- b. No
Please provide any further evidence.

Question 72.

Do you agree with the proposed approach to determine U-values of windows and doors in new dwellings?

- a. Yes**
- b. No
Please provide any further evidence.

Question 73.

Do you agree with the proposal to remove the default ψ -value for assessing thermal bridges in new dwellings?

- a. Yes**
- b. Yes, and I'd like to provide further information.
- c. No (please provide justification)

Question 74.

Do you have any information you would like to provide on the homes built to the Future Homes Standard using curtain walling?

No comment

Question 75.

Do you agree with the methodology outlined in the NCM modelling guide for the Future Buildings Standard?

- a. Yes**
- b. No (please provide justification)

Question 76.

Please provide any further comments on the cSBEM tool which demonstrates an implementation of the NCM methodology.

No comment

Question 77.

Please provide any further comments on the research documents provided alongside the cSBEM tool and which support the development of the NCM methodology, SBEM and iSBEM.

No comment

Question 78.

Which option describing transitional arrangements for the Future Homes and Buildings Standard do you prefer? Please use the space provided to provide further information and/or alternative arrangements.

a. Option 1

The upgrades in the FHS are not substantial enough to require a much longer transitional period. We agree that it is key to give developers time to transition, the Standard is already delayed and longer we wait, the more homes that will need to be retrofitted in the future. Extending transitional arrangements beyond 6 months will enable more gas boilers to be installed and inefficient homes to be built, reducing our carbon budgets, and creating a future retrofit legacy.

b. Option 2

Please provide further information or suggest alternative transitional arrangements with your rationale and supporting evidence.

No comment

Question 79.

Will the changes to Building Regulations proposed in this consultation lead to the need to amend existing planning permissions? If so, what amendments might be needed and how can the planning regime be most supportive of such amendments?

a. Yes (please provide further information)

This depends on the transitional arrangements. If housing that already has planning permission at the point when the new regulations are published is exempt from the new regulations, then there should be no need to amend any existing permissions. If a different point in time is used, then there may be a need to amend some planning permissions to permit heat pumps or PV panels because of the perceived visual impact or noise. Theoretically, further changes to permitted development rights for ASHP and PV panels would help such amendments, however the effects of this would need to be carefully considered against amenity, heritage, and design implications.

b. No

Question 80.

Do you agree that the 2010 and 2013 energy efficiency transitional arrangements should be closed down, meaning all new buildings that do not meet the requirements of the 2025 transitional arrangements would need to be built to the Future Homes and Buildings Standards?

a. Yes

Maintaining these transitional arrangements will enable more gas boilers to be installed and inefficient homes to be built, reducing our carbon budgets, and creating a future retrofit legacy.

- b. No (please provide justification)

Question 81.

What are your views on the proposals above and do you have any additional evidence to help us reach a final view on the closing of historical transitional arrangements?

In the interests of building good quality homes that are future ready it would be unacceptable to build homes according to standards older than a decade. There needs to be clear guidance on closing transitional arrangements to prevent homes being built that will require significant retrofitting to become zero carbon. The transitional arrangements for the new Future Homes Standard should also include a date by which all new homes will need to comply, irrespective of when they were started or given permission to prevent any misappropriation. Clarity should also be provided around outline planning applications that have been granted permission and pre-applications that have been supported before the closing of the transitional arrangements.

Question 82.

Part O does not apply when there is a material change of use. Should it apply?

- a. Yes

Material change of use represents a substantial number of new homes each year. Residents should access the same level of protection against overheating than any other resident.

Applying Part O to material change of use will be essential if we are to ensure our buildings are suitable for our changing climate, at the pace required.

- b. Yes, but only for some types of conversion (please list from reg 5a-k or describe the type)
c. No

Please provide more details about why Part O should/should not apply to a material change of use and, if possible, point to existing evidence/examples that demonstrates your view.

No comment

Question 83.

Apart from material change of use, is there anything missing from the current scope of Part O?

- a. Yes, (please provide justification)

Part O Regulations must be extended to cover new nondomestic and extensions to existing buildings.

- b. No, (please provide justification)

Question 84.

Can you provide evidence on how the addition of extensions or conservatories to domestic buildings can impact overheating risk on an existing building?

- a. Yes, (please provide justification)
b. No

No comment

Question 85.

We are currently reviewing Part O and the statutory guidance in Approved Document O. Do you consider there to be omissions or issues concerning the statutory guidance on the

simplified method for demonstrating compliance with requirement O1, for buildings within the scope of requirement O1?

- a. Yes (please provide justification)
- b. No

No comment

Question 86.

Do you consider there to be omissions or issues concerning the statutory guidance on the dynamic thermal modelling method for demonstrating compliance with requirement O1 for all residential buildings?

- a. **Yes, it needs to factor in local microclimate to give a more accurate picture of the risks.**
- b. No

Question 87.

Do you consider there to be omissions or issues concerning the statutory guidance on ensuring the overheating mitigation strategy is usable for buildings within the scope of requirement O1?

- a. Yes, (please provide justification)
- b. No

No comment

Question 88.

Do you consider there to be omissions or issues concerning the statutory guidance on protection from falling?

- a. Yes, (please provide justification)
- b. No

No comment

Question 89.

Are you aware of ways that Approved Document O could be improved, particularly for smaller housebuilders?

- a. Yes, (please provide justification)
- b. No ...

No comment

Question 90.

Does Regulation 40B require revision?

- a. **Yes, (please provide justification)**

This could be clearer regarding properties where the owner is not the occupant – such as those where a developer takes on ownership prior to sales, or where a housing association or landlord owns properties which are then let to a tenant.

- b. No

Question 91.

Do you consider there to be omissions or issues concerning the statutory guidance on providing information?

a. Yes, (please provide justification)

This could be clearer regarding properties where the owner is not the occupant – such as those where a developer takes on ownership prior to sales, or where a housing association or landlord owns properties which are then let to a tenant.

b. No

Question 92.

Are there any improvements that you recommend making to the information provided about overheating in the Home User Guide template?

a. Yes, (please provide justification)

b. No

Question 93.

Are there any omissions or issues not covered above with the statutory guidance in Approved Document O that we should be aware of?

a. Yes

b. No

No comment

If you answered yes, please provide more details including suggestions on ways to improve the statutory guidance and point to existing evidence/examples that demonstrates why the gaps or issues you have identified should be reviewed as a priority.

Question 94.

Please provide any feedback you have on the potential impact of the proposals outlined in this consultation document on persons who have a protected characteristic. If possible, please provide evidence to support your comments.

We know that the negative impacts of climate change are most likely to affect the poorest and most vulnerable in society. We also know that these communities are those most likely to be in fuel poverty and living in sub-standard accommodation. As such, it is crucial that new standards for buildings are ambitious and result in high quality, energy efficient homes that are more cost-effective to heat and power.

Question 95.

Please provide any feedback you have on the impact assessments.

Given the longevity and stability provided by passive measures, it is difficult to understand how the impact assessment cost for better fabric was outweighed by technologies. We do not feel that this case has been robustly made, and that far more emphasis needs to be placed on passive measures.

Appendix 2 – Draft response to the Strengthening Brownfield Land consultation

The Department for Levelling Up, Housing, and Communities is seeking views on how we might strengthen national planning policy to support our approach to brownfield development.

This consultation will begin on 13 February 2024 and close at 11.45pm on 26 March 2024.

The online survey can be accessed on [Citizen Space](#) or by email to: BrownfieldLandConsultation@levellingup.gov.uk.

<p>Q1.</p>	<p>Do you agree we should change national planning policy to make clear local planning authorities should give significant weight to the benefits of delivering as many homes as possible [yes/no]? If not, why not?</p>
<p>LCC Response</p>	<p>Yes. As well as being clear about the quantum of housing it is crucial that national planning policy sets out an unambiguous national vision for the quality of housing that can be delivered through the planning system and its role as a spatial planning discipline not simply a technocratic process of delivering numbers of homes. This spatial planning vision should be more explicit at a high level about the purpose of the planning system being to deliver at the same time:</p> <ul style="list-style-type: none"> • the right level of affordable, safe and secure housing for all • beautiful, safe and sustainable places • development within climate and environmental limits • economic recovery and levelling up • improvements to health and wellbeing <p>The development of brownfield land contributes to this in the following ways:</p> <ul style="list-style-type: none"> • Increases the density and environmental quality of places to enable more liveable, walkable neighbourhoods that can support public and active travel and reduce car-dependence • Enables a transit-oriented approach to sustainable development that maximises existing infrastructure and patterns of growth • Provides opportunities to integrate nature recovery, green and blue infrastructure, and decontamination of land, improving resilience and encouraging nature-first solutions to climate adaptation • Radically transforms places and improves the life chances of existing communities as well as providing homes for new communities. <p>However, the main issue around increasing development on brownfield land within city and town centres is not about lack of policy. It relates more to:</p> <ol style="list-style-type: none"> 1. the land market (low land values (which reduce the benefits that be sought e.g. affordable housing and which requires planning innovative in bringing sustainable development forward) 2. the reluctance from volume housebuilders to engage in these places (outside of London and the South East) unless there is investment or capital funding 3. lack of housebuilder skills in comprehensive remodelling of urban spaces 4. lack of funding to remedy gaps in affordable housing.

	<p>There is a need for certainty of funding (and vision) for major place-based urban regeneration projects, which would ensure that new higher density urban housing was accompanied by wider placemaking benefits e.g. green infrastructure, social infrastructure and improved transport infrastructure.</p> <p>For a city like Leeds – the largest in Europe without a mass transit system – building to higher densities on brownfield land without these measures in place would simply add to pressure on existing services and roads.</p>
Q2.	Do you agree we should change national planning policy to make clear local planning authorities should take a flexible approach in applying planning policies or guidance relating to the internal layout of development [yes/no]? If not, why not?
LCC Response	No. We welcomed the Governments focus on design and are well on the way through continued plan-making to deliver beauty and design coding on brownfield sites and create resilient long lasting neighbourhoods. This approach threatens to disrupt positive plan-led work because it is too blunt and threatens the weight that would be attached to critical place making factors around flood risk, green and blue infrastructure, design, amenity, health and well-being, culture, accessibility and so on.
Q3.	If we were to make the change set out in question 2, do you agree this change should only apply to local policies or guidance concerned with the internal layout of developments [yes/no]? If not, what else should we consider?
LCC Response	No. The proposal would not provide sufficient control over the quality of housing. The proposals suggest that the quantity of housing on brownfield land should be prioritised over quality in terms of design including daylighting and internal layouts, which could overlook fundamental requirements for living and create unhealthy places to live – the opposite of what we understand government wants to see through the Levelling Up and Regeneration Act and current NPPF.
Q4.	In addition to the challenges outlined in paragraph 13, are there any other planning barriers in relation to developing on brownfield land?
LCC Response	By concentrating new housing in the largest 20 urban areas, the Government has elevated to a national policy status what it sees as the roles of these towns and cities. If national policy is now to explicitly concentrate household growth in the largest towns and cities, the Government needs to target public funds on those areas as well. There will be a need for additional physical and social infrastructure, which at the current time – due to current development viability – are challenging to deliver in urban areas. Government must also acknowledge that in focussing development within urban areas on previously developed land it will inevitably expect the lowest value sites to do the heavy lifting in terms of delivery of wider planning benefits including affordable housing. This will inevitable mean fewer gains and less affordable housing will be delivered without significant public subsidy e.g. in Leeds only 7% affordable housing is sought in most of the main urban areas and city centre, whereas 35% affordable housing can be sought in outer areas due land values.

	<p>The long-term trend of population and investment dispersal away from cities and towns has been reversed in Leeds (with over 80% of all housing being delivered on previously developed land over the past 10 years). Our city centre and towns have been transformed and are poly-centric, attractive, cohesive and safe places where people want to live, work, invest and spend time in. Much of this has involved the work of the public sector – with the planning system at the heart – by orchestrating investment in these places and creating catalysts for private sector investment e.g. allocations, Council House building, open space improvement, transport improvement.</p> <p>Planning is therefore not the problem when delivering brownfield land, it is the solution in cities like Leeds.</p>
<p>Q5.</p>	<p>How else could national planning policy better support development on brownfield land, and ensure that it is well served by public transport, is resilient to climate impacts, and creates healthy, liveable and sustainable communities?</p>
<p>LCC Response</p>	<p>As more and more homes and jobs are delivered within the main urban areas the pressures on existing infrastructure have increased. A brownfield first and transport-oriented approach to development has been followed in Leeds which has made best use of urban brownfield potential and maximised existing infrastructure, but without improvements to infrastructure, this will now reach its natural end as existing infrastructure has been fully optimised and more investment is needed if these towns are to continue to fulfil their urban renaissance, regeneration and productivity roles.</p> <p>The issue is therefore one of investment in wider place-making not the planning system putting a break on development. This is why Leeds welcomes the investment that the government is providing via Innovation Zone, Leeds Transformation Regeneration, Mass Rapid Transit. This is the right focus and will enable the planning system locally to development quality brownfield neighbourhoods at scale that serves the people of Leeds well and attracts further investment it the City.</p>
<p>Q6.</p>	<p>How could national planning policy better support brownfield development on small sites?</p>
<p>LCC Response</p>	<p>The Government could set out in the NPPF that delivery of brownfield land is a priority and that opportunities for sustainable development on brownfield land should be taken before other alternatives. The NPPG could provide clear guidance on carrying out Urban Capacity Studies for the top 20 urban authorities. Government could make it easier for local authorities to compulsory purchase land to assist in brownfield land assembly, especially in local and town centres.</p> <p>In Leeds, there is a wide variety in the sizes of sites available. The large number of smaller sites offer opportunities for small and medium sized developers to create bespoke developments. We know that small and medium size house builders have historically been responsible for building a significant proportion of new homes in the city, and this ensures that the potential of these developers can continue to be realised. Alongside this sits a range of larger sites which will cater for those seeking more substantial development opportunities, and those who wish to work alongside others to deliver complementary schemes that come together as a comprehensive development. In addition, redevelopment opportunities are identified across</p>

	<p>the district. These provide the opportunity to bring existing buildings back into use, and for new development to make effective use of land that is no longer required for its previous purpose.</p> <p>National planning policy could support the brownfield development on small sites by ensuring that a greater proportion of land allocations are identified for these opportunities. By making sure that a wide mix of sites are available, in terms of size, land type and location, means that there are opportunities across all markets. This will ensure that the rate of delivery of new housing continues to increase, allowing a variety of sites to be built out at the same time to cater for a range of different needs and requirements.</p> <p>We recognise the Framework's support for the SME sector, which enables support for small sites and recognises that the business model for SMEs is different to that of the volume builders. Local and regional builders make a significant and important contribution to overall housing completions. The Framework would be more effective if it seeks to address issues stalled sites, through providing simplified routes to planning approval, to de-risk sites and allow LPAs to support developers to bring small sites forward. There is a good track record in Leeds which has always maintained a plentiful supply of small sites well in excess of at least 10% of their housing requirement on sites no larger than one hectare required.</p>
Q7.	Do you agree we should make a change to the Housing Delivery Test threshold for the application of the Presumption in Favour of Sustainable Development on previously developed land [yes/no]?
LCC Response	<p>No. The Council consider that the proposed change is inappropriate for the following reasons:</p> <ul style="list-style-type: none"> • In combination with recent national policy changes including the urban uplift and the December 2023 NPPF changes, the proposals create a separate planning framework for top 20 urban areas. • Setting the threshold at 95% puts the top 20 urban centres authorities at significant risk to fall below the Housing Delivery Test (HDT) and would impact the ability to control development within these areas. • This proposal would undermine the plan-making process, as adopted local would no longer apply. • The proposal would be likely to result in poorer quality homes in these urban areas, exacerbating the concentration of deprivation in areas where existing deprivation levels are high.
Q8.	Do you agree the threshold should be set at 95% [yes/no]? Please explain your answer.
LCC Response	No. A threshold 95% does not allow for the increase in delivery that would be expected as schemes build out across performance periods particularly in large urban authorities where delivery can be dependent upon the completion of a small number of large schemes in the city centre.
Q9.	Do you agree the change to the Housing Delivery Test threshold should apply to authorities subject to the urban uplift only [yes/no]? If not, where do you think the change should apply?
LCC Response	No. The threshold should be consistently applied across all LPAs. Guidance on applying the uplift should make it clear that it is intended to fully exhaust and realise the capacity of brownfield and other under-utilised urban sites and that it should be applied to land allocations where these opportunities

	exist once the housing target (set as a minimum of the standard method) have been made. Delivery against targets should be calculated against the standard method not including the 35% uplift figure to recognise it is a policy aspiration rather than an evidenced need.
Q10.	Do you agree this should only apply to previously developed land within those authorities subject to the urban uplift [yes/no]?
LCC Response	Yes. If the presumption in favour of sustainable development is to be applied, then it should only apply to previously developed land. To do so to greenfield land would seriously threaten the point of the urban uplift. However, it should be for local plans to set the context for the uplift not national planning policy for the reasons given above.
Q11.	Do you agree with the proposal to keep the existing consequences of the Housing Delivery Test the same [yes/no]? If not, why not?
LCC Response	<p>No. Changes to the Housing Delivery Test should be considered that take into account the supply of planning permissions approved as well as delivery. This would avoid penalising authorities where sufficient deliverable permissions have been granted but not built, which is outside of the control of a LPA. Moreover, care is needed to avoid penalising ambitious local authorities for adopting housing targets more than the standard method. To that end, local authority context is important, and flexibility should be applied.</p> <p>It is important for national guidance to support a long-term view of housing delivery, which allows for better planned outcomes across plan period time frames (including delivery of critical infrastructure to facilitate delivery of homes and jobs) rather than a reactive approach to housing numbers often in tandem with the cyclical nature of the market. To that end, the end point objectives of a plan period (including both delivery of numbers and the adopted spatial strategy) should be given more weight than the inevitable market fluctuations within it.</p>
Q12.	For the purposes of Housing Delivery Test, the cities and urban centres uplift within the standard method will only apply from the 2022/23 monitoring year (from the 2023 Housing Delivery Test measurement). We therefore propose to make a change to the policy to align with the publication of the Housing Delivery Test 2023 results. Do you agree [yes/no]? If not, why not?
LCC Response	No. We do not think it is appropriate to implement a policy change retrospectively. The base date should be applied to a forward date.
Q13.	Do you think the current threshold of 150 residential units for referral of a planning application of potential strategic importance to the Mayor of London is the right level [yes/no]?
LCC Response	We do not have an opinion on this.
Q14.	If no, what would you set as the new threshold? [300/500/750/1000/other] Please explain your answer.
LCC Response	No response.

Q15.	We continue to keep the impacts of these proposals under review and would be grateful for your comments on any potential impacts that might arise under the Public Sector Equality Duty as a result of the proposals in this document.
LCC Response	No response.