Response to the Department for Communities consultation on the Draft Housing Supply Strategy 2022-2037, February 2022

Introduction

The Construction Employers Federation (CEF) is the certified representative body for the construction and housebuilding industry which employs c30,000 staff in Northern Ireland. The organisation has over 800 member companies ranging from micro businesses employing a handful of people to the largest construction companies in Northern Ireland.

In total, CEF member companies account for over 70% of construction output in Northern Ireland.

Response to consultation questions

Strategic Framework

1. The Call for Evidence consultation showed that there was broad support for the proposed vision, objectives and timeframe for the Strategy. Based on the comments received we have updated these for the draft Strategy – are you content with these?

"Everybody has access to a good quality, affordable and sustainable home that is appropriate for their needs and is located within a thriving and inclusive community."

- Vision – supportive

The Strategy will set out long term policies and interventions over a 15-year period to 2037 but will be divided into enabling action plans over 1-3 year periods.

- Timeframe of 15 years - supportive

Objective 1 Increase housing supply and affordable options across all tenures to meet housing need and demand.

The number of people on social housing waiting lists in Northern Ireland has risen by a tenth during the pandemic – over three times more quickly than in the preceding 12 months. As of December 31st, 2020, the social-housing waiting list stood at 42,665 (Northern Ireland Housing Executive data).

As such, we recognise the clear need for Objective 1 and its necessity.

In order to help alleviate this specific pressure we strongly recommend:

- Utilising the Executive's multi-year budget to deliver a multi-year Social Housing Development Programme
- Maintaining and enhancing Co-Ownership Housing's programme of investment while also growing the number of affordable housing options available, such as the introduction of Intermediate Rent

However, on Page 21 the draft Strategy states:

Build more social houses, especially where they are most needed. This includes ring fencing Housing Association Grant funding and seeking the prioritisation of water infrastructure for new housing in areas of most acute housing need.

This point is of particular concern within the Strategy as the prioritisation of water/wastewater infrastructure for one area or one kind of housing development over another could hamper investment and limit the amount of open market housing.

While we acknowledge this may not be the Strategy's aim, when taken with the overarching objective, the potential for this to be (mis)interpreted as such by local councils is clear with a negative knock-on effect to wider housing development.

The Strategy as written, as a key document which must be taken cognisance of in making planning determinations, will unquestionably impact on council planning officers' assessment of an application, their interpretation of legal requirements and ultimately their recommendation to a council planning committee as to whether an application should be granted against another or at all. This trickle-down effect should not be overlooked, and we recommend the clearest possible language to ensure no misunderstanding as the Strategy is delivered.

Overall, it is crucial DfC, DfI, local councils and relevant agencies establish or enhance workstreams and mechanisms to collaborate closely. This will be vital in ensuring this Strategy has the desired impact or indeed any impact as we work toward meeting objectives.

Given its critical importance to housing development and the acute capacity issues that are impacting construction the fact water, but not wastewater, infrastructure only merits one mention in the strategy is disappointing. Historic lack of investment in infrastructure – particularly wastewater treatment works –is holding back a significant number of new housing developments that would otherwise proceed to construction. Without full funding for PC21, PC27 and full implementation of the Living with Water Programme no ambitious housebuilding programme can succeed. Again, close collaboration and forward planning across government is critical, particularly between DfC, DoF, DfI and local government.

On the development of a mixed tenure policy (Pg 29/30) we would add that without sufficient government support the hard introduction of compulsory mixed tenure into NI will clearly be seen as a deterrent to investment because of the increased risk and devaluation of open market sale. Put simply, investment of capital seeks the path of least resistance/risk and that private investment, without the necessary support, will go elsewhere.

To ensure housing developments are not unduly delayed and to avoid losing valuable time in the first years of the strategy, planning reform must be a priority. We welcome the Strategy's broad statements of support for reform and would recommend DfC works with DfI as a priority to progress proposed changes as outlined in our response to the DfI Review of the 2011 Planning Act, April 2021- please see Appendix.

We welcome that the Strategy will be delivered through a series of detailed Action Plans, each of which will align with budget periods. For new build social housing, the need for multi-year budgets is, as we have said previously, crucial.

Finally, it feels like a missed opportunity that this Strategy barely mentions the proposed reforms of the Northern Ireland Housing Executive given the huge potential that such reforms would undoubtedly provide. Our industry is strongly supportive of the position laid out in November 2020 that these reforms would, ultimately, enable NIHE to borrow to refurb its existing stock and re-enter the new build market. We don't underestimate the political challenge presented in seeing such reforms through but, equally, government should not underestimate the challenge presented to industry, in terms of a renewed lack of confidence, when such a landmark statement sees barely little follow through over the following 15 months.

Objective 2 Prevent homelessness and reduce housing stress and improve and prioritise housing solutions for those who are most in need

We believe the most effective way to tackle housing stress is to encourage the construction of more new homes. Housing solutions are vital for those who are most in need, but they are also vital for everyone – it is therefore important that we continue to encourage housing of all kinds.

Regarding homelessness we have no specific comments to add other than to give our full support to the Department's, and wider Executive's, initiatives in this regard and make clear that we are prepared to help as an industry in the pursuit of eliminating homelessness and reducing economic inactivity.

Objective 3 Improve housing quality

As the Strategy outlines, an uplift to our Building Regulations is long overdue and we have recently responded to the DoF consultation on the initial uplift. However, moving beyond this and conscious of England's Future Homes Standard, we must make sure a significant programme of work is undertaken in ensuring the reliability and scalability of solutions such as heat pumps – especially where it relates to retrofit. We need to build a lot of confidence in what this Strategy is proposing – from homeowners to housebuilders – and we see the Phase 2 Building Regulations uplift discussion document as vital to this as well as an extensive programme of loans and grants to incentivise homeowners to undertake retrofit works.

With respect to the Phase 1 uplift where it relates to new build, we fully accept the need to significantly upgrade our Building Regulations given the NZEB requirement. There is an unquestionable societal, environmental and, indeed, economic need to do so. Additionally, and given the last significant upgrade to the Regulations was in 2012, it is also clear that many housebuilders are already building homes well in excess of the 2012 requirements on account of customer demand and technological developments within industry.

On the back of consultation with our membership – who provide the overwhelming bulk of new build housing in Northern Ireland year-on-year – we have taken the view that Option 2, as proposed in the Phase 1 uplift consultation, should be implemented as soon as practicable in 2022 with Option 3 to follow some 18-24 months thereafter.

We have enclosed the full CEF response to the Phase 1 uplift consultation as an Appendix.

In principle, we are always supportive of further improving the standard of our existing and new build housing stock. However, we must also be mindful that the vast majority of our new build stock is already built to exemplary standards of quality and workmanship and that is something this Strategy should acknowledge.

Objective 4 – Ensure the provision of housing options that contribute to the building and maintenance of thriving inclusive communities and places

- **areas of deprivation**

Housing-led regeneration is the antidote to deprivation. However, if it requires investment of private funds at risk either the reward must be massive, or the risk reduced. Finding ways and means to incentivise this investment is a huge challenge this Strategy must consider andprovide policy options on.

- **town and city centres**

The Strategy makes very little reference to zoning of land. The high street has changed forever and rezoning to mixed use must happen quickly. Large areas of land have zonings for employment purely, now, for historical use reasons. Its location as suitable for employment/industrial and, latterly, retail may long since have passed and we need to change to prevent avoidable dereliction.

- **suburban areas**

Covid-19 has forced households to reassess their home and the provisions and services to hand. We have seen an undoubted 'race for space'. With people now considering more of their working life happening in their home, they want larger houses, larger private gardensand do not need to be as close to their place of work. Good broadband is as important as good roads. People are prepared to move further away for more space and development onthe edge of cities/towns, with access to the countryside topping the wish list.

This Strategy needs to consider the extent to which such a trend is ever reversible and/or to what extent.

- **Divided Society**

In relation to a divided society the housing sector would strongly take the view that it has been successfully delivering against this for many decades.

However, where the statement is particular to the challenges of our divided society, it is important that the Department and the wider Executive acknowledge that it is not the fault,nor the fundamental objective, of housebuilders to deliver the much-needed shared future that our political leaders have failed to do since 1998.

Our industry will look to deliver the policy objectives that the Department, Executive andlocal councils set, but we must be very careful that this Strategy does not transfer the responsibility to deliver a shared future to it.

- **Local Government**

Some six years on from the transfer of the majority of planning powers to the eleven local councils, we remain some way off the adoption of LDPs, and the subsequent LPPs, in most cases. This is hugely challenging for the development community given its need for plans to be relatively up to date and the additional problem that, in many areas, the most recent plan can date back two decades or more.

While we can of course understand that the councils did take a period of time to adapt to their new powers and responsibilities, we do believe that now would be an appropriate time to simplify certain processes so that future plans can be brought forward in a timely manner. Please see our response to DfI Review of the 2011 Planning Act, April 2021 in the Appendix for additional detail of our suggestions.

Crucially within this, is the lack of zoned land in the locations people want to live – there remains little sense of when many of the local councils will have their first LDP and LPP plans in place and that, along with many other factors, is a significant barrier to investment.

Additionally, in Northern Ireland, we make the regeneration of brownfield sites very undesirable. This is because of the cost and risk of the remedial works, the challenges in obtaining planning approval and the commercial feasibility of many sites.

This Strategy must therefore consider how we make brownfield development more attractive – including where it is taken forward by housing associations.

Objective 5 Reduce the whole life carbon emissions from both new homes and existing homes and support a 'just transition' to carbon neutrality

The industry is keenly aware that, just like any other sector of our economy, we must play a leading role in decarbonisation and meeting the UK Government's stated aim of net zero by2050 (with the potential for any NI specific legislation to bring this date forward also in mind). Additionally, as we have detailed in response to Objective 3, an uplift to our Building Regulations is long overdue.

It is vital that the next Executive, as we detailed in our response to the DfE Energy Strategy Policy Options consultation, brings forward an ambitious retrofitting strategy that can deal with many of the challenges that our ageing housing stock faces. It is imperative however, learning the lessons of the recent failed approach in England, that any new strategy is co-designed with industry (e.g., the large number of firms that have undertaken NIHE stock adaptions/maintenance work in recent years), and has an appropriate level of incentive (such as grants and loans for homeowners) and de-risking from the Executive, to ensure it is delivered.

The confidence of both homeowners and the construction industry must be maintained. As the energy strategy notes "New standards and regulations will only succeed if accompanied by measures to support consumers to invest, as research indicates that the mean cost of improving homes to at least a Band C is estimated to be £6,200 per dwelling". Significant levels of finance are therefore required to meet even a basic uplift in energy efficiency, and we would therefore encourage DfC to work with DfE and DoF to ensure funding requirements are met or neither strategy will generate the desired outcome.

2. The assessment of the Call for Evidence has enabled us to develop a total of 15 longer term policies and interventions that will provide the basis to develop appropriate action plans. Do you agree with the focus of these 15 high-level long-term policies and interventions?

We agree with the overarching ambition and focus of the 15 high-level long-term policies and interventions. However, we would strongly suggest, relating to Point 1 below from the Strategy in italics below, that housebuilders are represented on any Project Board or steering group as this would benefit collaborative working and enhance delivery and oversight. The CEF would welcome the opportunity to be part of such a grouping to build relationships and aid progress.

Work collaboratively and innovatively with the private, public and third sectors to address issues around land availability and considering issues such as: local services, infrastructure constraints, sustainable drainage, digital connectivity and transport.

All 15 policies rely or impact on the house building industry here in one way or another and therefore we believe this would be of benefit to all moving forward.

3. The Strategy includes an enabling principle to: 'Adopt a whole system approach, collaborate with central and local government and the third and private sectors to inclusively transform supply.' Do you agree with the proposed enabling principle?

The enabling principle is welcome - the Strategy states:

"this Strategy is based on the assumption that as an Executive we will:

- *Prioritise housing and deliver for those most in need;*
- *Grow the economy;*
- *Address investment in Infrastructure;*
- *Improve our Planning System;*
- *Release public sector land (both local and central government owned) where appropriate; • Invest in modernising our skills;*
- *Secure the necessary funding for our decarbonisation requirements; and*
- *Maximise the availability of public and private finance."*

This gives an indication of the breadth of collaboration required and the need for the Strategy to break free from a siloed approach.

We believe having a clear vision of the coming 5-10 years is crucial for housebuilders, their supply chains and employees – we need this strategy, and ultimately our political leadership at Executive level, to acknowledge and deliver on this.

Therefore, having a 'Whole System' approach, focused on co-design across government to housing supply is vital and we believe this Strategy must, at the very minimum, be agreed and implemented by the full Executive.

We would echo again the point made in answer to Question 2 and encourage private sector inclusion from the start on any project board or steering group. More detail on how any partnership with the private sector would be structured and work in practice would be welcome.

CONSTRUCTION EMPLOYERS FEDERATION

4. Do you agree with the proposed ambition to deliver 100,000 plus homes over the 15-year lifespan of the Strategy?

The number of homes built is of central interest to the construction industry, it is therefore of concern that the number is vaguely defined and the statistics unclear. While the 'plus' may cover this nominally - it is imprecise and ultimately limits ambition rather than encourages construction of the housing required.

Housing supply, due to a variety of factors, is under severe pressure and this is reflected in the statistics https://www.communities-ni.gov.uk/topics/housing-statistics . Dwelling starts have decreased significantly in the last two years along with dwelling completions which has combined with the largest percentage increase in house prices for the last four years. While not doubting the impact of the pandemic on these figures, urgent action is now needed to increase housing stock, ease upward market pressures and help alleviate the shocking number of people who are in housing stress.

Taking into account what is presented in this draft Strategy, 100,000 homes over 15 years is roughly 6,666 a year.

According to https://www.communities-ni.gov.uk/topics/housing-statistics the statistics on completions for the last four years are as follows.

- 20-21 New dwelling completions **6,446** 12% decrease on 2019-20
- 19-20 New dwelling completions **7, 314** 6% decrease on 2018-19
- 18-19 New dwelling completions **7,809** 10% increase on 2017-18
- 17-18 New Dwelling Completions **7,100** 10% increase on 2016-17

The forecast figure is less than three of the last four years. As the figure has decreased in the last two years, we would encourage the Department to take a more ambitious approach and set measurable figures for the lifetime of the Strategy which are an increase on what has gone before. The 'plus' should not be used to cover this.

In addition, the strategy's stated Objective 1 to increase social and affordable homes to 30% of the stated 100,000 plus figure is of concern (as the figures below detail). While, of course, we should be looking to significantly grow the number of social and affordable homes, it should be done as an accompaniment to growing the number of new build homes of all types. Taken literally, the current target in the Strategy would equate to a decrease in the number of private sale houses coming to the market – exactly the opposite of what we should be looking to achieve in order to maintain affordability for homebuyers.

Dwelling starts

- 20-21 New dwelling starts **6,459** 9% decrease on 2019-20 – roughly 11% social sector – 89% Private Sector
- 19-20 New dwelling starts **7,085** 16% decrease on 2018-19- roughly 11% social sector – 89% Private Sector
- 18-19 New dwelling starts **8,424** 12% increase on 2017-18- roughly 12% social sector – 88% Private Sector
- 17-18 New Dwelling Starts **7,517** 3% decrease on 2016-17- roughly 10% social sector – 90% Private Sector

The interpretation of this strategy at a local level is also of critical importance - the 100,000 plus figure could be misinterpreted by local councils while drafting and implementing LDPs and by planning officers when making recommendations on applications, especially when it is added to the interpretation that is, more often than not, applied to the flawed Housing Growth Indicators.

Ultimately the strategy should be more ambitious and set clear and measurable targets that aim for a much-needed increase of housing supply to avoid further exacerbating the crisis in new build housing, of all types, that we are already facing.

Considering the evidence above, we therefore believe the target of a minimum 9,500 home completions per year (housing of all types) for the duration of the Strategy represents a fair number and is both ambitious and realistic.

5. Do you agree with the proposed indicators to measure the success and progress of the Housing Supply Strategy?

As noted above more ambitious, measurable and clear targets in terms of Dwelling Starts and Dwelling Completions would be welcome.

Additionally, we would recommend a review and reform of the methods calculating Housing Growth Indicators to make them both more robust and, ultimately, carry greater weight.

6. Are there any additional indicators that you consider would add value in measuring success and progress?

As noted in Question 4, ambitious, measurable and clear targets for the number of houses built each year well in excess of the 100,000 plus figure should be included to provide confidence to the housebuilding sector and avert further exacerbating the existing crisis in new housing supply.

Delivery and Oversight
7. How can we best ensure that key strategic partners such as other Departments, local government, the Voluntary & Community sector and private sector can participate in the delivery and oversight of the Supply Strategy delivery?

As noted above we would strongly encourage housebuilder representation on any Project Board or steering group. This would benefit collaborative working and enhance delivery and oversight. The CEF would welcome the opportunity to be part of such a grouping to build relationships and aid progress.

Action Planning
8. Are there any proven or new approaches you are aware of, that you believe would help us work best with other organisations to develop and deliver the action plans?

Only to reinforce the comments we have made previously around the need to formally involve housebuilders in the work of any Project Board or steering group. Without this, we struggle to see how the delivery of the Strategy can be done in partnership with all relevant actors.

Citizen Engagement
9. There was broad support in the Call for Evidence for the need to engage local communities in housing supply to create sustainable, thriving and inclusive communities. In what way do you consider this could best be achieved and do you have any examples of best practice in this area?

We welcomed the opportunity to be involved, during 2021, in DfI's Planning Engagement Partnership. Given the clear links between it and this Strategy, in terms of how best to engage with communities, we would strongly encourage the Department to engage with DfI on its outcomes and implementation.

Equality

10. Do you agree with the findings of the EQIA?

Yes

11. Are there any other inequalities that have not been highlighted in the EQIA that you believe the EQIA needs to note?

No

12. Do you agree with the immediate next steps as outlined in Section 5 of the EQIA?

Yes

Rural

13. The Rural Needs Impact Assessment outlines that the development of the Housing Supply Strategy is likely to have a positive impact on people on Rural Areas? Do you agree with this assessment?

Yes

14. Is there any other evidence, information or issues you think should be considered in this screening?

No

General

We would welcome any other comments or suggestions you have that you consider are relevant to developing and delivering the Housing Supply Strategy.

Considering how much crossover there is between this Strategy and others being taken forward, we again include with this submission, as appendices, our responses to the below as formal evidence:

- DfI Call for Evidence on Review of 2011 Planning Act, April 2021
- DfE Energy Strategy Policy Options consultation, June 2021
- DoF Consultation on Proposals for amendment of Technical Booklet Guidance to Part (Conservation of fuel and power) of The Building Regulations (Northern Ireland) 2012 (as amended), December 2021

We would request that these responses be given the same weight as our responses to the questions above. Additionally, given the number of government departments involved that have a stake in growing our new housing supply and retrofitting our existing stock, this should act as clear evidence of the extent of cross-departmental working, as well as partnership with housebuilders, that is required in order for this Strategy to be a success.

APPENDIX 1

Response to DfI Review of the 2011 Planning Act, April 2021

Comments on the Review

Local Development Plans

Q.1. Do you believe there is a need to retain, amend or repeal any provisions of Part 2 of the Act or associated subordinate legislation with regard to the delivery of Local Development Plans?

Detail relevant provisions:

Section(s) 5 – 18 inc.

Supporting Comments:

We believe each of the above provisions require amendment/review where appropriate as is detailed in the next section of our response.

All other provisions of Part 2 should be retained as they are currently.

Q.2 Do you believe there are any improvements which may be made to the way in which local development plans are implemented?

Supporting Comments:

Some six years on from the transfer of the majority of planning powers to the eleven local councils, we remain some way off the adoption of LDPs, and the subsequent LPPs, in most cases.

This is hugely challenging for the development community given its need for plans to be relatively up to date and the additional problem that, in many areas, the most recent plan can date back two decades or more.

While we can of course understand that the councils did take a period of time to adapt to their new powers and responsibilities, we do believe that now would be an appropriate time to simplify certain processes so that future plans can be brought forward in a timely manner.

We would therefore fully support the recommendation of the CBI that *an independent working group should be established with the task of improving (1) the form and content of developmentplans, and (2) the processes by which they are drawn up.*

This could consider changes such as:

- Looking beyond each council's first plan, we believe the Department should bring the requirement in line with the statutory requirement in other jurisdictions of a new plan/refresh every 5-6 years.
- Additionally, the Department should tighten up the ability of any individual council to alter the timetable for their LDP. Presently, this can be done as many times as an individual council sees fit. We would recommend that this be altered so that it can be done in exceptional circumstances only.
- Further to this point, the Department should also take the opportunity of this Review to clarify the reasons and circumstances within which it would seek to intervene on any specific council which is not meeting its LDP timetable and/or is bringing forward policies in their

draft LDP which conflict with documents such as the SPPS and other relevant Executive strategies.

- Given the lengthy timescales that remain for many councils adopting their first LDP, never mind their LPP, we believe that in future there is a strong argument for evidence gathering, consultation and drafting processes running concurrently for both.

Finally, given our experience to date with respect to our understanding of the soundness test of an individual draft LDP, we believe greater legislative clarity needs to be brought to what the definition of soundness is.

Planning Control and Additional Planning Control

Q.3 Do you believe there is a need to retain, amend or repeal any provisions of Part 3 or Part 4 of the Act or associated subordinate legislation with regard to the Planning and Additional Planning Control?

Detail relevant provisions:

Section(s) 25 – 32, 40 – 50, 57 – 58, 76 – 78 inc.

Supporting Comments:

We believe each of the above provisions require the relevant amendment (be it to the Act itself, subordinate legislation and/or the appropriate Development Management Practice Note(s)) as is detailed in the next section of our response.

All other provisions of Parts 3 and 4 should be retained as they are currently.

Q.4. Do you believe there are any improvements which may be made to the way in which planning control is implemented?

Supporting Comments:

In making our recommendations for change, we have drawn on our members' experience over the past six years as well as four significant publications that have been produced in that period:

- An opportunity to level up planning, CBI Northern Ireland, October 2020
- Review into the Efficiency and Effectiveness of the Planning System in NI, with particular focus on the role of statutory consultees, Department for Infrastructure, November 2019
- Creating a more effective and sustainable housing development model for Northern Ireland, Forum for a Better Housing Market NI, October 2019
- Housing Supply Forum Report & Recommendations, January 2016

Pre-Application Discussion

On our assessment of its varied effectiveness since the two-tier system came into being, we believe that PAD for major and regionally significant planning applications should become a statutory requirement.

However, key to doing this must be that all statutory consultees are legislatively obliged to take full part in PAD as, without this over the last six years, it has meant that PAD has not had the cross-the-board effectiveness that it should have done.

PAD should remain proportionate to the type and scale of application that is in consideration so a matrix approach should be considered as a means to make this clear to potential applicants at an early stage.

Pre-Application Community Consultation

We are pleased to be involved in the Ministerial Planning Engagement Partnership that is currently considering community engagement in the planning process. While we hope its ultimate report will seek to enhance PACC given the undoubted benefits it has brough about since its introduction, there are several matters which we believe need addressed through this review.

Firstly, consideration should be given as to whether PACC is at all required on proposals which form part of already consulted on masterplans. There is evidence of consultation fatigue on such developments and, indeed, some confusion among local residents who believe plans they were consulted on are now being changed (eg. the housing element) when, in fact, they are not.

Secondly, the temporary changes to public consultation brought in because of the pandemic must be made permanent. Online and remote consultation is a hugely beneficial accompaniment to the other types of consultation prescribed in the Act and should be given equal weighting.

Thirdly, we would fully concur with the recommendation within the CBI report that *the 12-week (minimum) PACC process for major and regionally significant applications should be reduced to 8 weeks (minimum) where applicants have demonstrated to the relevant planning authority, within theProposal of Application Notice that "meaningful engagement" with the community can be delivered through digital engagement, alongside the existing statutory public event.*

Finally, with respect to the PACC report that is ultimately included with a planning application and linked to the work of the Planning Engagement Partnership, we believe that applicants who can clearly identify community buy-in to their proposals/applicants who have clearly amended plans in line with community feedback should be given additional weight by planning authorities with respect to speed in decision making.

Application checklist, Processing Agreements and Statutory Timeframes

Although brought forward by some councils, we believe now is the time to require all planning authorities to develop mandatory application checklists through a matrix approach that is based on the type/scale of development. Where a clearly defined checklist is ignored by an applicant on review of their submission, a planning authority must consider immediate refusal of the application where it cannot be speedily rectified by the applicant/consultant.

Linked to the above, as is identified in the CBI report, processing agreements should be agreed by planning authorities and proposed applicants for all major and regionally significant applications with these agreements clearly detailing a timetable from PAN to application decision to which all parties, including statutory consultees, are obliged to stand over.

That obligation must also now be extended towards statutory timeframes within which statutory consultees must respond to major and regionally significant applications. The current approach had been proven not to work and it needs to be enhanced with a statutory requirement. Planning authorities should be able to set these timeframes within the above processing agreements so that the timeframes can be responsive to the type/scale of application that is being considered.

Where statutory consultees do not respond, or respond substantively, within the timescales that all parties have agreed to in a processing agreement, then the planning authority must now have the right to determine an application without further delay.

Additionally, where statutory consultees seek to request further information from an applicant so to inform their own response, they must issue this request in a timely manner. As others have suggested in their response to this Review, we believe that period should be no more than 8 weeks.

It is though incumbent that, to match with this enhanced service, statutory consultees and, indeed, planning authorities are adequately resourced so to enhance speed of response. The lack of resource has been a major theme over many years and was undoubtedly enhanced due to the Voluntary Exit Scheme. This must be addressed if we are to have a planning system that is fit for purpose.

The principle of a Virtual Delivery Unit, as proposed in the Housing Supply Forum report of 2016, could also be revisited as a means to test out a trial processing agreement.

Given the current lack of any legislative provision, we believe the Review should also introduce a statutory timeframe for applications that have been received, and are complete, to be validated within.

<u>Post-approval</u>

Since the reform of the planning system, members regularly engage with use regarding having to submit new planning applications for already approved developments where they are seeking minor amendments or non-material changes.

This, given what happens in other jurisdictions, seems a wholly unnecessary restraint on development and the Review should seek to lay out clear definitions of acceptable amendments and non-material changes to existing permissions given that the Act, currently, does not.

<u>Online planning applications</u>

With a contract now in place, we look forward to the establishment of an online portal for planning applications in Northern Ireland going live in 2022. This will make it much easier for applicants to submit applications in a timely manner and make it easier for interested parties to scrutinise them.

<u>Northern Ireland Water – PDE</u>

In the context of ongoing capacity constraints in our wastewater treatment network, we are supportive of Northern Ireland Water's call for greater, but not full, weight to be given to the PDE application at the earliest possible stage in the process. Through engagement with Northern Ireland Water in recent months, we are aware of the benefits of an early PDE application in terms of working with them to develop a bespoke solution engineering check for each site if capacity in the wastewater system does not currently exist for new connections.

However, a solution engineering check has its limitations and is no substitute for the upgrades that are needed at approximately 150 wastewater treatment plants across the country. Therefore, while we acknowledge that Northern Ireland Water, as a statutory consultee, has the right to give the opinion that a planning application should be rejected – we would not accept that this opinion be given greater weight in an individual council's decision on an application especially given the validity of a planning consent for up to five years and, therefore, the possibility that some areas may see their relevant wastewater treatment plants upgraded in that timeframe. The current default position of granting approval subject to relevant conditions must therefore remain.

Planning Agreements/Developer Contributions

Regarding the relevant content of the Act, the industry is not opposed to Developer Contributions in principle. Indeed, when the Department for Infrastructure conducted a consultation exercise on its proposed Development Management Practice Note 21: Section 76 Planning Agreements in late 2016, the industry played an active role in ensuring that developers had an opportunity to positively comment on the proposals and that the Department would, ultimately, publish a Development Management Practice Note which had, as far as practicable, the buy-in of industry.

However, reflecting on the publication of Belfast City Council's draft Developer Contributions Framework in the autumn of 2018, many of the key challenges remain: approach to viability, acceptable developer profit, land valuation, policy context, sums in agreements, status of contributions and request of contributions for projects not within an individual Council's gift.

A much clearer, upfront, and transparent approach, as well as how the approach links in with that being developed by many councils – with respect to affordable housing policies – as elements of their Local Development Plans, needs to be brought forward by all planning authorities. We have previously supported the concept of a matrix based on the type/scale of development and believe this needs to be considered again.

Planning Appeals Commission

In line with a key recommendation of the CBI report, we believe an outcome of this review must be to give a much-enhanced role to the Planning Appeals Commission. To this end, and before the issue of a Ministerial Notice of Opinion, all regionally significant planning applications must be sent to the PAC for independent examination. The PAC would then make a recommendation to the Infrastructure Minister based on their independent findings.

In the future, there is then a wider discussion to be had about how projects identified by an independent Infrastructure Commission, which then subsequently receive Executive 'Flagship' (to use the current definition) status, are considered, and determined by the PAC without any further involvement from the Infrastructure Minister.

Planning conditions

While we accept the role of planning conditions in enhancing the quality of development and enabling development to proceed where it otherwise would not, there is a fine line between this and what our members have commonly reported to us over recent years. Conditions must also be fair, reasonable, and practicable as we have seen – particularly on new build housing developments – a significant growth in pre-commencement conditions which we firmly believe could be sufficiently discharged during the development phase rather than in advance of it.

From this review we would, at the very least, request that the Department urgently review Development Management Practice Note 20 and that this review is done with industry who can bring a significant number of examples forward as unnecessary pre-commencement conditions.

*Building on this last paragraph, and with reference to many of our other comments with respect to reviewing Parts 3 & 4, this may be an appropriate moment to review all existing Development Management Practice Notes and their ongoing applicability and/or need for amendment. The CEF, through the Procurement Board, is part of conducting a similar exercise with respect to all

Procurement Guidance Notes in Northern Ireland and, given that many of the DMPN's are coming on for six years since their last amendment, we would encourage the Department, along with external stakeholders, to take forward a short, sharp review.

Enforcement

Q.5 Do you believe there is a need to retain, amend or repeal any provisions of Part 5 of the Act or associated subordinate legislation with regard to the Enforcement?

Detail relevant provisions:

No comments.

Supporting Comments:

No comments.

Q.6. Do you believe there are any improvements which may be made to the way in which planning enforcement is implemented?

Supporting Comments:

No comments.

COVID-19 Recovery

Q.7 Do you believe there are any changes to planning procedures in general which could safeguard the system against potential future adverse impacts associated with emergency situations, such as that currently being experienced as a result of COVID-19 pandemic?

Detail relevant procedures:

Extending planning permissions where commencement has been delayed because of the pandemic.

Supporting Comments:

Given the ongoing uncertainty as to what our economy recovery beyond the pandemic looks like and, indeed, how long it might take, we believe there is a very strong argument to extend the permissions for developments which have been held up from commencing construction over the last year.

With the economic challenges that we face, however, this would need to be kept under continuous review in the event that the commercial market, particularly, takes longer than hoped to recover to its pre-pandemic levels.

Equally, such extensions to existing permissions should also be considered where WWTW capacity issues are the critical factor in the holding up of any specific housing development.

Other Parts of the 2011 Planning Act

Q.8 Do you believe there is a need to retain, amend or repeal any provisions of other parts of the 2011 Planning Act, or associated subordinate legislation?

Detail relevant provisions:

We believe the other provisions of the 2011 Act should remain as currently.

Supporting Comments:

N/A.

APPENDIX 2

Response to DfE Energy Strategy Consultation on Policy Options, June 2021

Comments on the Consultation

Role of infrastructure in decarbonisation/tackling climate change

- The industry is keenly aware that, just like any other sector of our economy, we must play a leading role in decarbonisation and meeting the UK Government's stated aim of net zero by 2050 (with the potential for any NI specific legislation to bring this date forward also in mind).
- Where it relates to this Strategy and others being taken forward by different Executive Departments, we believe that all new built environment infrastructure (new schools, colleges, healthcare facilities for instance) that is commissioned/procured should be done so in line with policies and approaches that are climate change proofed – e.g. BREEAM, Passivhaus. This has already taken place locally (for example SWC Enniskillen), so the market is well adapted to price and deliver such works.
- The industry also wants to see the strategy bring forward an ambitious retrofitting strategy that can deal with many of the challenges that our ageing housing stock faces. It is imperative however, learning the lessons of the recent failed approach in England, that any new strategy is co-designed with industry (e.g. the large number of firms that have undertaken NIHE stock adaptions/maintenance work in recent years), and has an appropriate level of incentive (such as grants and loans for homeowners) and de-risking from the Executive, to ensure it is delivered.
- As the Strategy details, an uplift to our Building Regulations is long overdue and we look forward to the consultation on the initial uplift in late summer/early autumn. However, moving beyond this and conscious of England's Future Homes Standard, we must make sure a significant programme of work is undertaken in ensuring the reliability and scalability of solutions such as heat pumps. We need to build a lot of confidence in what this Strategy is proposing – from homeowners to the construction industry – and we see the Phase 2 discussion document as vital to this.

Construction Leadership Council CO_2nstructZero

- As part of the construction sector's commitment to decarbonisation, we would encourage the Department to consider the emerging work of the Construction Leadership Council's Co2nstruct Zero plan which is due to bring forward a major report in the summer: https://www.constructionleadershipcouncil.co.uk/wp-content/uploads/2021/03/COnstruct-Zero-Summary-Document.pdf
- Ahead of the publication of this report, we have already committed to the 9-point carbon change programme that has been laid out – much of which chimes with the objectives of this Strategy:
- Transport

1) Accelerating the shift of the construction workforce to zero emission vehicles and onsite plant.

2) Maximising use of Modern Methods of Construction and improved onsite logistics, reducing waste and transport to sites.

3) Championing developments and infrastructure investments that both enable connectivity with low carbon modes of transport and design to incorporate readiness for zero emission vehicles.

- Buildings

4) Work with Government to deliver retrofitting to improve energy efficiency of the existing housing stock.

5) Scale up industry capability to deliver low carbon heat solutions in buildings, supporting heat pump deployment, trials of hydrogen heating systems and heat networks.

6) Enhancing the energy performance of new and existing buildings through higher operational energy efficiency standards and better building energy performance monitoring.

- Construction Activity

7) Implementing carbon measurement, to support our construction projects in making quantifiable decisions to remove carbon.

8) Become world leaders in designing out carbon, developing the capability of our designers and construction professionals to develop designs in line with circular economy - reducing embedded and operational carbon, shifting commercial models to incentivise and reward measurable carbon reductions.

9) Support development of innovative low carbon materials (prioritising concrete and steel), as well as advancing low carbon solutions for manufacturing production processes and distribution.

Skills challenge

- The Strategy clearly, and understandably, demonstrates that in order to see it delivered, there needs to be skills revolution locally.
- Our industry is well positioned to adapt to this and to bring forward the new opportunities and appropriate retraining, including carbon literacy training, that will be needed.
- However, what it absolutely fundamental to this will be whether there is the clear market and pipeline of work that is likely to make those skills needed.
- Consumers need to be convinced of the need to make the journey towards zero carbon and, in order to see that become real, they need to be appropriately educated and incentivised to undertake retrofit and projects like installing heat pumps through a variety of Government-backed loans and grants.
- Given so many previous false dawns, the industry needs to be convinced that what this Strategy proposes is tangible and real – if industry doesn't believe that the incentives proposed are likely to herald a new era of investment, then it is highly doubtful that many firms will take the unquantifiable risk of investment in skills, new technologies and materials that may not come to pass in the types of timeframes this Strategy alludes to.

- It is important, therefore, that any new Energy Skills Forum has appropriate representation from the construction sector.
- Equally, consumers need to be confident in any work that is undertaken and the materials that are used to complete it – we would concur that a quality mark scheme for tradespeople, like TrustMark, is therefore absolutely vital.

Placing You at the Heart of Our Energy Future

- For this Strategy to succeed, what is proposed and, ultimately, evolves from this section of the Strategy is absolutely crucial.
- It is chiefly on the basis of this that the construction industry will have the confidence to invest in the skills requirements, technology and materials in order to take forward such critical undertakings such as retrofitting our existing housing stock.
- The proposed 'one stop shop' for consumers, along the lines of the Sustainable Energy Authority Ireland, is to be welcomed.
- However, it will be the financial incentives that encourage consumers to make the changes necessary that will be vital.
- This has to be done in an affordable and fair way, protecting the most vulnerable in our society, but must also recognise that it has to be attractive to consumers.
- The lack of any tangible sense, at this stage, of what these type of incentive schemes may be gives our industry a lack of confidence in the road ahead.
- Detail on the proposed pilot in spring 2022 needs to be brought forward and, equally, would benefit significantly from having some level of co-design with industry.

Grow a Green Economy

- It is clear that this Strategy has the potential of being a game changer in terms of the workloads and job opportunities within the construction sector.
- Notwithstanding our concerns about a lack of information currently on potential incentive schemes for consumers, further investment in renewable energy and energy efficiency will boost our industry's output in those areas.
- However, the Strategy is wrong to pick out the Green Homes Grant Scheme in England as something to build on.
- Poorly designed and understood, with a lack of co-design with industry, it failed miserably, and its lessons must be learnt as we look to take this Strategy forward in Northern Ireland.

Do More With Less

- When it comes to Chapter 6, we fully appreciate the role our industry can and, indeed, has to play with respect to the aims of this Strategy and our current and new housing stock.
- The level of challenge is, however, made clear by the Strategy itself with respect to our existing stock: *It is estimated that the cost of upgrading the 390,000 eligible domestic dwellings in Northern Ireland to band C is around £2.4bn, or £6,200 per household. Increasing the 586,000 eligible households to a higher band B is estimated to be £9.2bn, or*

£15,600 per household. In setting standards, careful consideration will therefore be given toboth the costs and benefits for domestic and non-domestic consumers.

- Setting minimum energy efficiency standards is, therefore, something that this Strategy should strongly consider – but it must also consider with great urgency the type of educationinitiatives and financial incentives that would enable the above eligible households to achieve anything approaching Band B.
- An additional way of considering this would be to incentives people through the rating system – the higher the Band, the greater the discount on your annual bill. This, if applied, would be for both current and new housing in order to promote behavioural change acrossour society.
- We should also, as has been detailed by NIE Networks, look to take forward a significant programme of smart metering installation in Northern Ireland given how far behind the restof these islands we are on this. This would have the dual benefit of a substantial programmeof work for the construction industry as well as the direct benefits to householders.
- With respect to the proposed series of uplifts in our Building Regulations, the industry very much looks forward to imminent DoF consultation on the first proposed fabric first-focuseduplift.
- However, we must express our significant concerns with moving to align ourselves with England's Future Homes Standard.
- There are likely going to be huge costs for housebuilders and, ultimately, homeowners withrespect to installing and retrofitting the types of new technologies that the Strategy discusses – particularly heat pump-based solutions.
- While it is likely that the market could deliver these solutions, and it is of course arguablethat the costs of doing so would reduce as the market builds, the Phase 2 discussion document that will inform longer term uplifts in Building Regulations locally is going to beabsolutely critical in charting how we all get to net zero but, crucially, how we do it sustainability so to enhance confidence in what this Strategy is proposing.

APPENDIX 3

Response to the Department of Finance Consultation on the uplift to standards of Part F of the Building Regulations, December 2021

Response to consultation questions

Q1: Do you agree that it is sensible to prioritise the proposed amendments to Technical Booklets F1 and F2 guidance in advance of awaiting outcomes around the development of new UK NCMs, software and proposed building regulations uplifts?

- Yes

Q2: Do you agree that additional manual checks of current software reports will be manageable in practice to demonstrate compliance in relation to the new requirements for:

- the betterment of the TER;
- an air-tightness performance no greater than 10 m3/(h.m2) at 50Pa; and
- new U-value limits for building fabric?

- Yes

Q3: Do you agree that the new guidance should apply from three months of publication of the guidance and from as early in 2022 as practicable?

- Yes – but with comments

As with any other change in guidance which is, in real terms, the actually required minimum practice, it is crucial that its application is taken forward in a sensible manner. While the comments in paragraph 4.5 are, therefore, welcome in that regard – it is important that this links in directly with previously granted planning approvals. Planning authorities in the local councils need to be fully cognisant of the changes that are coming – particularly where any change would require new houses to now have, for instance, PV panels installed. Equally, the same must apply for other key enabling partners – such as NIE Networks – as Northern Ireland can ill afford holdups in much needed new housing supply.

In the context of any uplift, we must also be mindful that fabric betterments in new housing may have significant impacts on site layout – specifically where approvals are granted for developments which are relatively tight on land. Again, flexibility on the part of local councils and other statutory bodies must be deployed in the context where any changes impact on the layout of previously approved plans.

Q4: Do you agree that Option 1 should be dismissed?

- Yes

Q5: Do you agree that the above proposals provide an appropriate interim step, which can be implemented quickly?

- No. If no, should they be more onerous or less onerous? Please explain your reasoning and provide supporting evidence for alternative suggestions, taking into account that further review is planned for 2022/23.

We believe that Option 2 should be the preferred initial interim step, with Option 3 to be implemented 18-24 months after Option 2 comes into force. Our rationale for this will be explained in our response to question 6 – however we would also encourage any housebuilder to go above and beyond Option 2, where feasible and practicable, in advance of Option 3 being implemented.

Q6: Do you prefer Option 3 (40% betterment of the TER for houses, 25% for flats and 15% for new non-domestic buildings), or are the standards outlined in Option 2 (25% betterment of the TER for all dwellings and 15% for buildings other than dwellings) preferred?

- Preference is for Option 2

We fully accept the need to significantly upgrade our Building Regulations with respect to the NZEB requirement. There is an unquestionable societal, environmental and, indeed, economic need to do so.

Additionally, and given the last significant upgrade to the Regulations was in 2012, it is also clear that many housebuilders are already building homes well in excess of the 2012 requirements on account of customer demand and technological developments within industry.

However, consultation with our membership – who provide the overwhelming bulk of new build housing in Northern Ireland year-on-year – has led us to take the view that Option 2 should be implemented as soon as practicable in 2022 with Option 3 to follow some 18-24 months thereafter. Our rationale for this is:

- The last year has seen unprecedented material shortages and price increases right across the construction industry. While the shortages have, to some extent, abated in recent months there is no sign of a concurrent reduction, or even stabilisation, in prices. Those that are closest to the materials supply sector of the industry consistently reaffirm that these cost pressures, with now the enhanced impact of renewed inflationary pressures, will continue well into 2022. Many housebuilders have absorbed these costs in recent months – but there is a strong view, particularly outside of Greater Belfast where house prices are often of a magnitude lower on average, that that absorption is becoming increasingly harder to bare.
- This has the risk of not only making more and more of our new housing stock less affordable for purchasers – but also running the risk of making it uneconomical and unviable for housing developments to continue until the inflationary pressures ease.
- With our members estimating that Option 3 would cost per dwelling between £4k to £6k more than Option 2 on PV alone and this, crucially, being based on current prices, we believe a more sustainable position is to move to Option 2 in 2022.
- On review of many of the figures detailed in the consultation, there appears a significant disjoint between what is presented as the additional costs and what is the actual reality. Given that the Northern Ireland Executive has acknowledged for public works which includes

the SHDP, through PAN 01/21, that many contractors need urgent assistance in order to deliver critical projects, we believe the same level of understanding should prevail where it comes to housebuilders being unable to take on never ending cost increases without appreciating the challenges they are facing.

- Additionally, that the consultation makes no reference to the proposed increases in building control fees, the likely outcome of the DfI Road Bond Review, red diesel changes or the costs to housebuilders of inadequate Wastewater Treatment Works capacity across Northern Ireland is unfortunate and reinforces, again, that government far too often exists in silos which act, in this case, as a significant restraint on meeting Northern Ireland's new housing need.
- There is also the risk of unseen costs that housebuilders may have to shoulder – particularly with respect to the installation of PV and concurrent required upgrades to electricity cabling and substations.
- Of course, we acknowledge and accept that this consultation is only the first part of a decade long process of updating our building regulations. While this, as we have said before, is the right thing to do – it is our view that, as per the timeline laid out in the DfE draft Energy Strategy, there is the space to hold off on implementing Option 3 until, at earliest, late 2023. That would give the opportunity for current inflationary pressures to ease – but also afford time for many of the other concerns we have regarding feasibility and sustainability of the industry to be addressed. It would also in no way impede the consultation on further enhancements scheduled for 2022/23.
- Finally, we do positively acknowledge that the consultation has recognised the emerging use of heat pumps in our new build housing stock. We envisage this increasing significantly in the years to come and appreciate that the Department has sought to offset the PV requirement in line with the significant carbon reduction in running in a new build home that has a heat pump installed.

Q7: Do you agree that the definition of 'flat' in regulation 2 provides a sufficiently clear discrimination of the building types to enable the different betterment rates to be applied to houses (40%) and flats (25%)?

- Yes

Q8: Do you agree that the proposed DER requirement for a 25% betterment of the TER should be applied to flats?

- Yes

Q9: Do you agree with the heat pump costing assumptions (see Annex A in the Regulatory Impact Assessment (RIA)), the 10% incident rate estimate for flats and the proposed level of uptake for heat pumps in houses, used in our modelling (see Annex C in RIA), appropriate?

- Yes

Q10: Do you agree that the Department should make any necessary adjustment to attend to replicating the treatment of heat pumps proposed under Part L revisions in England for non-domestic buildings?

- Yes

Q11: Do you have any data or modelling that would be useful in helping to assess the likely cost impacts on specific building types under the proposals?

- Yes

We find the comment in the consultation that *'costs for non-domestic construction are much more difficult to establish than in the domestic sector'* difficult to comprehend given the role that other experts within government, chiefly CPD and the CoPEs, play in pulling together public sector project estimates for same. We would strongly encourage officials within the Department to engage with colleagues in public procurement policy on this – especially given their access to the levels of detail contained within such publications as the BCIS indices.

Q12: Do you support the overall proposals for buildings other than dwellings, including proposed BER requirement for a 15% betterment of the TER for new non-domestic NZEB buildings?

- Yes

It is a longstanding view of ours, and given the success of the tender process and construction of projects like the new South West College in Enniskillen, that all new public sector built environment projects should be built to Passivhaus standard.

Q13: Do you agree that adopting the 2013 edition of the Non-Domestic Building Services Compliance Guide is worthwhile and would be at negligible cost to current practice?

- Yes

Q14: Do you agree that the guidance revising the limiting U-values is worthwhile and workable for industry and enforcement?

- Yes with comments

The guidance is workable as long as, as per our response to question 3, common sense is applied where fabric enhancements necessitate, for new build housing, expansion in the size of dwellings for which planning permission has already been sought and achieved. This is even more the case where developments are on land which is already tight in outside space where having to go back to achieve new planning permission may negatively affect site viability considerations.

Q15: Do you agree that the revisions to guidance on thermal bridging are a helpful clarification of current processes?

- Yes

Q16: Do you agree with the removal of the default values for airpermeability of 15 m3/(h.m2) currently permitted?

- Yes

Q17: Do you agree that the overall proposed changes on fabric standards are helpful to support a ‘fabric-first’ approach?

- Yes

Q18: Do you agree that the guidance on non-export connections is helpful?

- Yes with comments

Part of our rationale for preferring Option 2 as the immediate first step relates to the position around export/non-export/grid reliability. A detailed process of engagement will need to take place between housebuilders and NIE Networks on each and every site to ensure that any PV that is installed can be reliably connected to the grid. Our sense of this is that the difference in PV panels between Option 2 (8 panels) and Option 3 (10-12 panels) is significant enough that it is much more preferable to proceed with Option 2 in the short term while the move to Option 3 needs some additional time to be reliably and sustainably managed in.

Q19: Do you have any comment on our impact assessment and its key assumptions?

- No

Q20: Have you any suggestions or observations that do not fit into the preceding questions?

- Yes

On the back of this consultation, we believe that Departmental officials must work with colleagues in the DoF rating division to discuss how we can incentivise the purchase of houses built to higher energy standards.

While there are many ways that incentives could be considered, only one substantive means at this stage – household rates – sits within the powers of the Northern Ireland Executive.

Seeking to innovatively use the rating system to incentivise house purchases can be a significant stimulant in seeking to drive consumer and, indeed, industry behaviours – and such incentives should, of course, also be considered for the resale market where appropriate.

Finally, and given the comments within our response, we would be keen to meet with Departmental officials as soon as practicable in the New Year to discuss the issues that we and our members have raised.