

Planning for the Future – A Summary of the Bartlett School of Planning’s Response

Planning for the Future, published in August, contains the government’s proposals to radically reform the planning system in England. The Prime Minister likens the current system to a dilapidated house, needing to be ripped down and rebuilt from its foundations. The system is undoubtedly in need of review: its purpose needs restating and greater confidence is needed in its power to deliver spatial justice and sustainability. Its current ‘dilapidation’, however, owes much to years of under-investment, especially under recent Conservative governments, and this helps explain low morale amongst many professional planners, the slow pace of plan production in much of England and the disaffection of so many citizens with the system. In its consultation on the White Paper, government directs interested parties to answer 26 questions on its proposals. Many of the big issues – should we move to a rules-based system and ration opportunities for democratic input and discretion; should the system focus largely on the licensing of housing development; should the climate emergency, and planning’s critical role in addressing it, be relegated behind a growth focus; and others – fall between the cracks that are all too obvious in the consultation. For that reason, a team of 19 academic planners have provided a full response to the consultation, dealing also with some of these bigger issues. The purpose of this summary is to outline our answers in brief to the consultation questions.

PILLAR 1

1. Words to describe the planning system

It feels like government is actively fishing for some negatives here, which it hopes to be able to headline in the months ahead. But the reality is that a well-resourced and valued planning system concerns itself with spatial justice, is an instrument of democracy, and is the means by which societies address some of their most pressing challenges – including the need to adapt to new economic and environmental realities. It is impossible to convey the purpose of planning in three words and it is obvious that government seeks only to deride and undermine the system and the purpose of planning.

2. Do you get involved in local planning?

As with Questions 16 and 21 below, this and Questions 3 and 4 are more suited to a survey of residents, than a national consultation on a Planning White Paper. We comment on the substantive issues raised by the proposed reforms in subsequent sections.

3. Finding out about plans and planning proposals

See above.

4. Top three priorities for local planning

See above.

5. Should local plans be simplified as government suggests?

The short answer is no. The argument that plans should be simplified rests on the claim of slow plan-making. But the reason for slow plan-making lies in *resourcing* and not in the current format of plans. Also, slow plan-making does not explain the current housing crisis in England (i.e. a crisis of housing

cost and affordability), which will not be solved simply by increasing the rate of housebuilding (even if this were explained by slow plan-making). The reasons given by government for simplifying plans are false. Moreover, there are nine problems with the proposed three-fold structure of plans:

- No consideration is given to the balance of land uses and their relationship to key infrastructure that is needed to create sustainable places;
- The ambition of producing plans in 30 months is entirely incompatible with the goal of front-loading community engagement;
- The proposed simplification will itself become a source of considerable local debate, conflicts and even litigation, which is likely to slow plan-making;
- Insufficient attention is paid in the White Paper to the uneven geography of market opportunity in England, and also to viability, creating likely complexities in the designation of land for growth and renewal in different places;
- The meaning of ‘substantial development’ in Growth areas, and also ‘gentle densification’ in Renewal areas, is not at all clear;
- Details of what ‘Protection’ will mean are also scarce: no reference is made to other sites in need of protection, including but not confined to strategic industrial land, safeguarded wharfs, land for transport infrastructure or even for food production;
- The simplicity of the proposals will melt away once lengthy legal battles begin over disputed land designations;
- Insufficient detail is provided on the interface between locally prepared design codes – which are key to the success of this new codified system – and proposed national development management policies;
- Finally, no reference is made to ‘zoning’ in the White Paper, but the proposal is to shift to a rules-based planning system with just three zones. The suggestion is that this will be a simple shift, accompanied by shorter and clearer plans. But in other zoning systems, multiple zones and overlays are required to reflect the complexities of local situations. Code-books can run to hundreds of pages. Rules-based planning systems concern themselves with the details of rules, seeking to anticipate different scenarios. They take time and resources to establish and then operate.

6. Streamlining development management – and setting general development policies nationally

In short, no. Any shift to automatic permission and move away from case-by-case discretion will demand greater local control over development policies. Tying the hands of local authorities runs counter to claims of greater democracy in local planning. We can see where government is going with this: limit what communities have to talk about in the ‘front-loading’ of engagement by deciding the detail of everything in Westminster, and thereby accelerate plan-making. This not only undermines the democratic claims of the White Paper, it also makes opaque the relationship between design codes and the local plan. If general development policies are decided nationally, what will be the function of design codes, or indeed of Neighbourhood Development Plans?

7. (a) The single statutory ‘sustainability test’ / (b) Strategic planning without the duty to cooperate

- a. This proposal presents significant challenges. Contrary to the statement in the White Paper, there is considerable debate on the meaning of sustainable development within planning circles and the current version within the NPPF is widely considered to favour development at the expense of environmental and social sustainability concerns. That said, there may be benefits in a less process-oriented test of a Local Plan in favour of one that is more substantive. This would depend on a stronger definition being provided in the NPPF. Sustainability Appraisals could play an important role here in linking the definition to Local Plan development

and should not be abolished; there is no evidence that they contribute to delays. Rather they could be strengthened and their quality improved.

- b. This is a hugely speculative question and like others we are alarmed by the lack of a clear strategic direction for future planning. Strategic thinking and being able to work across boundaries are basic prerequisites for good planning. The whole of England should be covered by strategic regional plans, which follow functional geographies. These plans might be much shorter than the former Regional Spatial Strategies, and covering different areas. Their function would be to provide a framework for frontloaded local plan-making, ensuring cross-boundary evidence was brought into the allocation of sites for housing, thereby supporting the delivery of homes in the right places (and thereafter helping to promote and frame cross-boundary working), as well as better coordination of infrastructure and environmental issues at more meaningful geographical scales.

8. (a) The standard method / (b) Affordability and extent of existing urban areas

- a. The basic premise that local authorities should be working with the same method for calculating housing needs and land requirement is sound. But there are methodological complexities involved in arriving at the right calculation of future need. Our observation is that the standard method set out in the companion paper is narrow and should be critically assessed against other, richer methods for calculating future housing need that embrace a wider range of data and examine other drivers of housing demand including the availability of mortgage credit, interest rates and other price (and access) determinants;
- b. We agree that affordability is a critical concern in all debates on future development and should be an indicator that affects development decisions. Care needs to be taken, however, in the use of specific affordability measures. The extent of existing urban areas is also an important consideration in development decisions, but again caution is needed. The concentration of development may present challenges, owing to issues of land availability or tightly-drawn development boundaries (that may pose a challenge to development without an effective strategic, cross-boundary, strategic planning response). Further, 'affordable' is a relative term: can the home be afforded by people of a certain income?

9. (a) Automatic permission in Growth Areas / (b) Consent regime for Renewal and Protected areas / (c) Bringing new settlements forward under the NSIPS regime

- a. We do not believe that this will deliver the benefits suggested in the White Paper, for several reasons. First, in-plan permission is not a definitive green light for development. Much needs to be decided and worked out later on. This means that automatic permission will not deliver the certainty claimed. Second, planning authorities will need to be heavily resourced in order to undertake the ground and legal appraisals needed to support automatic permissioning. It is not at all clear that authorities will be given the required resources. Third, nothing is certain in land development – even if outline permission is automatically given – and therefore consideration must be given to the retention of flexibility. There seems to be an assumption that automatic permission could be conferred on all development, irrespective of scale, and once that is settled the development will progress smoothly without ever having to review that permission. However, market conditions when a site is developed might be very different from those prevailing when the local plan, with its in-plan permissions, was approved. The discretion to vary decisions and conditions offers the potential to develop a site in ways not originally envisaged, and thereby preserve the viability of development. We do not believe that government should abandon flexibility and move to a clearly inferior mode of development permissioning. Developers are familiar with the current system. Problems with it are rooted in resourcing and plan making and not in the nature of the consenting regime.
- b. Our answer for renewal areas is the same as above. The answer for protected areas is that consent arrangements look to be unchanged from current practice. This in itself is not

problematic, but could miss some potential areas for positive reform. For example, if we are talking about rural areas, outside village envelopes, then there may well be a case for replicating those aspects of growth area consenting that give special support to community-led and self-build housing (see p. 29 of the white paper). Sub-areas allocated for these types of housing would be welcome in many rural areas.

- c. The Nationally Significant Infrastructure Project (NSIP) regime is not fit for the purpose of consenting new settlements to be developed in England as presently constructed. We are also concerned that there is no way to 'level up' England when delivering new settlements under NSIPs consenting processes as things stand. This is primarily because the regime does not contain spatial guidance on actual matters of national significance or balance.

10. Making decision making faster and more certain

Support for those bringing forward small developments is welcome, but this should be part of a strategy to diversify who builds homes in England. Help should be given to self-builders and community builders. This should not be about promoting small private developments that remain below planning contribution thresholds. Faster decisions are not welcome if they come at the expense of development quality. Delays in the planning system often mean that proposals are rethought and improved. Planning should be fundamentally concerned with the making the right decisions and not only the fastest ones. Digitalisation and standardisation (of formats) is welcome so long as it improves the experience of democracy and planning for everyone. Different sections of society vary in their ability and inclination to use digital technology. Furthermore, being able to view often quite complex spatial and graphical material requires abilities, bandwidth and equipment (for example detailed plans of renderings of proposed buildings are very difficult to view on the type of small screen used in smartphones and even many tablets) that are not equally distributed across the country, different age groups and communities. With this in mind we disagree with proposals to remove the opportunity for local communities and local authorities to comment on specific applications rather than just the general principles governing those developments.

11. Accessible web-based local plans

There is significant merit and good intention in this proposal. But the tone of the White paper is worrying in its promotion of the capacity of developers and Proptech providers to operate fluidly within the planning system and culture, whilst saying very little about how the digital rethink will ensure marginalized voices and harder-to-reach communities also benefit. In short, the proposal attends only to the methods of documentation and information delivery, and explains very little about how the digital-first approach will cope with the non-quantifiable data – the qualitative reach of planning and planners in the community. We are very concerned that the latter will be left to compete (even more than it already is) with the former for political support. The value of the technological improvements in data access (i.e. the uni-directional flow of information) must be sufficiently matched by new approaches to, and resources for, widening and deepening meaningful engagement.

12. 30-month statutory time line for local plans

It has long been accepted that the system should be plan-led, and measures to speed-up the delivery of local plans are, in principle, welcome. However, the reform proposals attach great weight to local plans. They are the epicentre of frontloaded democracy. They will also be characterised by a new codification of rules, required for the management of development in Growth, Renewal and Protected areas. There is much to get right (and a risk of getting much wrong if plans are rushed) and also a need for intense engagement with communities and other interests. The system and the plans proposed by government will need generous resourcing so that they are eventually signed off by the Planning Inspectorate. An arbitrary deadline of 30-months risks undermining the very things (i.e. a more democratic and rules-based planning system) that the government is seeking to achieve through

planning reform. Such a deadline risks failure at the first hurdle and would place a considerable strain on the Planning Inspectorate.

13. (a) Neighbourhood Plans / (b) Further development of Neighbourhood Plans

- a. Neighbourhood planning has become a key element of participative democracy in England and offer a means of securing meaningful engagement in the planning process. It must be retained and expanded;
- b. There are a variety of ways in which the value of Neighbourhood Planning might be increased. There include, but are not confined to:
 - Training for participants in Neighbourhood Planning, in partnership with local authorities and nearby universities;
 - Expense payments for Neighbourhood Planning leaders, allowing them to dedicate time to plan-making without incurring personal financial cost;
 - A requirement that local authorities partner and work constructively with Neighbourhood Planning groups. Many already do, but others could be encouraged to engage more proactively;
 - A system of grant support dedicated to the implementation of Neighbourhood Plans. This means grants for community projects so they are not reliant on CIL (or its future replacement);
 - Training on, and funding for the purchase of, appropriate digital tools.

14. Emphasis on the build out of development

We agree that, to the extent that development outcomes can be determined by public intervention, more needs to be done to facilitate build out. First, sites allocated in local plans are frequently over-dependent on the market for delivery. If local plans could identify sites to meet housing need that will be delivered by a range of public bodies, then delivery would be faster. Second, where sites are made available either through Homes England or through HE grants (e.g. HIF), there should be requirements for build out timescales within the land sales/leases and grant regimes. Third, where sites are supported through government loans or other support such as the provision of infrastructure funding through LEPs, growth, city and devolution deals or new development corporations such as in the 2020 Budget, they should be accompanied by legal requirements related to delivery. Fourth, once planning permission is granted, then sites could be required to pay a 'permission' tax on permitted but not implemented homes. And finally, where sites are not implemented within a specified period, local authorities should have the right to CPO them for housing development.

PILLAR 2

15. The design of recent new development in your area

The *Housing Design Audit for England* (Place Alliance, 2020) reveals that three quarters of new housing development in England achieves a mediocre or poor design standard; a fifth should never have been given planning permission as the design is clearly contrary to advice given in the National Planning Policy Framework (NPPF). To make matters worse, less affluent areas are most affected (ten times more likely to suffer poor design), exacerbating disadvantage rather than helping to 'level up'. This clear does require urgent action to address the underlying issues.

16. Your priority for sustainability in your area

Like Questions 1-4 and 21, this question is couched in the terms of a resident survey. We make key points about sustainability in response to Question 7a.

17. Improving the production and use of design codes and guides

This is a complex question to which the simple answer is, that if produced early and in a clear and assessable manner, coordinating codes would provide a sound basis for the upfront and fundamental participation of communities in the planning process. Such codes could provide the basis for engagement around real development principles which can be understood by all without the technical detail and language that so often makes later consultation unsatisfactory. There might also be scope for the creation of a community design review panel with representatives of various community organisations (residents associations, community interest groups, faith groups, and other members of the civil society that reflect the diversity of the local authority, and which members rotate), which co-produce and revise design codes and guidance along with the local authority and the professional design review panel. Whatever the precise approach, it would seem important to produce guidance for local authorities on how the community involvement in the production of local design codes and guidance should take place to ensure that it is meaningful. These processes will take time and relate to our rejection of the arbitrary 30-month deadline for the production of local plans.

18. A new body to support design coding / every local authority to have a chief officer for design and place-making

In short, yes. But there is a need for a broader focus on design skills within local authorities. Several recent reports have drawn attention to the skills deficit. Delivering on the design and beauty goals of the White Paper will require this to be addressed and, more broadly, nothing of the ambition of the White Paper will be delivered until and unless we invest significantly in our vital planning services. That should be the first priority. Design leaders – and a support body – could well be important but they should be seen as not ends in themselves but as one part of increased design capacity. That will include also creating community design review panels (with rotating membership) that can work on the production of codes and advise on significant schemes. Such a community-based panel should work closely with the ‘chief officer for design and place-making’ or any equivalent role in a local authority. It goes without saying that irrespective of the label, design leaders will need the requisite sustainability skills and continuing training to deliver not only ‘beautiful’ but genuinely sustainable places. As noted above, there needs to be a greater understanding of sustainability embedded in the planning system.

19. Emphasising design in the strategic objectives of Homes England

Yes, we are of the view that design needs to feature in the strategic objectives of Homes England in the following ways:

- As a measurable outcome of all their activities, assessed by an independent audit annually;
- As a specific outcome that is required and assessed in all grant and loans including HIF allocations made by Homes England and referenced also in a system of retentions to guarantee implementation;
- In place covenants and requirements in all land sales and leasing agreements concerning the quality of development, linking to measurable standards with penalty clauses for non-compliance.

20. Implementing a fast track for beauty

We disagree with this proposal and suggest that good design and timeliness rather than speed should be the objectives of the planning system. Emphasis should be placed on building, firstly, a local culture of high quality design over time; second, site-specific design processes which aim to maximise place value from each project; and thirdly, on relentlessly ensuring that high quality design is actually

delivered. Research has consistently shown that up-front investment in design quality takes time – there is no way around that if we want high quality outcomes – although this is paid back in a more streamlined regulatory process further down the line. Quick design solutions, through fast-tracking, run contrary to the deepening of democracy sought by the White Paper.

In response to related proposals (which did not have numbered consultation questions associated with them), we would make the following comments:

NPPF and the mitigation of climate change (proposal 15): We would welcome a strengthening of the NPPF in regard to the vital and necessary role the planning system needs to play in maximising environmental benefit and mitigating and adapting to climate change;

A simpler framework for assessing environmental impacts (proposal 16): We reject the proposals for abolishing SEA given the important role that it plays in determining the aggregate outcomes of project-based impacts. With regard to the proposal regarding EIA, this lacks sufficient detail to assess properly. The current deficiencies in the EIA system largely arise from the dependence on development proponents to commission the assessment and inadequately-funded routes for critically examining Environmental Statements within local authorities and public agencies.

Conserving and enhancing our historic building and areas (proposal 17): We welcome the restatement that historic buildings and areas are central to the government's vision for our society alongside sustainable development and environmental care. Local Plans have a clear role in heritage protection and give muscle to the statutory protections at national level. The move to recognising that the historic environment has huge potential to help the country meet our zero carbon goals is to be welcomed. Much work has been done in recent years to demonstrate how that historic environment might be adapted sympathetically to meet this requirement.

Improvements in the energy efficient standards of buildings (proposal 18): Principles laid out in the White Paper should lay the foundations for a low-carbon transition by: considering the role of key infrastructure at the urban scale; as well as setting more stringent energy efficiency standards for buildings and incorporating Life Cycle Assessment in development planning and decision-making.

PILLAR 3

21. What should accompany new development

The consultation is perhaps fishing for people to provide shopping lists of public benefits. Our answer is that residents need to benefit from development in appropriate and essential ways. Landowners and developers win significant cash rewards from planning permission, which are only possible once there has been sufficient public investment in enabling infrastructure. Hence, much of the value arising from development needs to flow into public benefit, into mitigation and into service infrastructure.

22. (a) A consolidated Infrastructure Levy / (b) Rate setting of IL / (c) More or less from IL / (d) Borrowing against IL

- a. The answer for a consolidated IF is yes, but its success will depend on the rate set. It has been estimated that a tax of 20 per cent would bring in far more revenue than the combined value of s106 and CIL. It is expected that the tax would be 100 per cent capitalised into the price of the land, so the ultimate cost would be paid by the landowner. Research on impact fees suggests that this is what typically happens in the US.
- b. IF should be set nationally at an area specific rate. It will be important that revenues are spent on genuinely supporting local infrastructure and social housing, with revenues ring-fenced for

community benefit to provide real incentives to encourage acceptance of new development. Charging at pre-set area specific-rates could be accompanied by a fixed proportion of revenues going into a centrally administered 'levelling-up' fund to provide additional support to more economically disadvantaged areas.

- c. IF should aim to collect the same amount overall. For political simplicity, introducing the new regime should probably aim to collect the same aggregate sum as the old arrangements on introduction. Because it is a percentage of GDV it is automatically index linked. And the rate could readily be adjusted upwards in bearable increments. Double the current harvest could probably be obtained in the long-run. This would be alongside additional investment in high-quality, sustainable design by developers.
- d. Yes, this would provide resources for local authorities to ensure that the required and funded infrastructure is provided at the appropriate time with the development. It would also provide some reassurance to communities and developers that the infrastructure was being provided at the same time. This is a significant issue for public confidence in development.

23. Infrastructure Levy (IL) and change of use through PDR

It is right that IF should be levied from developments utilising PDR. Change of uses can place differing burdens on local infrastructure. In the case of PD for changes of use to residential, there can clearly be additional pressure on local social and green infrastructure in particular compared to when a building was in commercial use. It is therefore important that the reformed Infrastructure Levy is able to capture and include such change of use, particularly as there is often a land value uplift associated with the change of use.

24. (a) Same amount of affordable housing / (b) In-kind payments / (c) Mitigating against local authority over-payment / (d) Supporting affordable housing quality

- a. We should seek to secure more affordable housing through IL. Given the ongoing affordability crisis and the systematic under-supply of housing in places where people work and desire to live, it is imperative that affordability is kept as a primary object;
- b. More analysis is needed on this issue. There are bound to be disputes between developers and local authorities regarding the valuations of schemes, and resources are too often squandered on professional and legal fees in resolving them. If the affordable housing quantum and mix is agreed in advance, there is much to be said for the local authority, an authority housing company or development corporation, or other non-profit provider being the developer to ensure standards are met and subsequent maintenance considerations incorporated in the designs;
- c. In case of a developer delivering in-kind affordable housing that is not good value for money, the risk of getting bad quality for the 'price' of the infrastructure levy revenue (and possibly a top-up price paid by the local authority) falls on the local authority. Given this, it seems that the 'right to purchase' at discounted rates for local authorities may be a less risky mechanism than the 'in-kind' delivery approach: it is the benefit of market competition, if the delivery is below expectations the authority can decide not to purchase it.
- d. Research has shown that that the quality of affordable housing provided through s106 is variable. There needs to be a clearer focus on ensuring the quality of housing delivered through future value capture mechanisms.

25. Restrictions on spending IL (and (a) Ringfencing)

This is a difficult question. As it is clear that any additional flexibility for local authorities comes after 'core infrastructure needs' are met some relaxation of restrictions seems reasonable. We would certainly wish to avoid circumstances where overly rigid agreements result in situations where developers can claw back unspent contributions for community infrastructure or that pressure is

placed on local authorities to spend these within a limited timescale. Furthermore, if the government proposes to maintain affordable housing funding from development contributions then it should be ring fenced.

Our responses to the further proposals on delivering change (which did not have numbered consultation questions associated with them) are as follows:

Resourcing (proposal 23): None of the ambition of the White Paper is achievable without a sizeable injection of resources into the planning system and service. Many of the challenges outlined in the White Paper owe their existence to the resource deficit that planning has endured in recent years.

Enforcement (proposal 24): Enforcement has often been seen as a 'Cinderella' of the planning system and has been particularly squeezed under funding cuts already mentioned. To have integrity, the system needs to have effective planning enforcement. This would be assisted by strengthened enforcement powers and sanctions available, which are currently often ludicrously small compared to the financial value of development. We would therefore generally support these proposals, with the caveat in relation to the mention of 'encampments' that there continues to be adequate equalities and human rights protections.

26. Equalities Impacts

The protected characteristics are age, disability, gender reassignment, race, religion or belief, sex, sexual orientation, marriage and civil partnership and pregnancy and maternity. The proposals in this WP do not consider the housing, infrastructure and digital needs of those with these characteristics and appear to be blind to them. There are no specific proposals that will support all those who are older or younger or have a disability in better meeting their housing needs where we know from research that these groups have restricted access to housing and mobility.

Summary

There are certainly things to commend in *Planning for the Future*. Some sensible thoughts are offered on the use of technology and data in improving the experience of planning and better design outcomes are sorely needed. But at its core are proposals to undermine the democracy of planning in England and introduce complexities that may well slow the operation of the system and impede the supply of new homes. Rather than offering a formula for simplified planning, a rules-based and codified approach will be slow and complex to operate. The insistence that plans are produced in 30 months will place new strains on local authorities and communities, who are likely to share new frustrations over the operation of the system.

We agree, however, that change is needed. All areas need local plans, and these need to provide the essential and authoritative basis of decision making. These need to offer clarity to the development sector. But at the same time, the flexibility and discretion to revisit development decisions needs to be maintained. A planning system that balances certainty with flexibility is the holy grail of many countries. It is not achieved through rules-based zoning unless such zoning is accompanied by mechanisms for discretionary review and zoning variance. England's planning system has elements that are admired around the world. It is not merely an outlier than needs correction. Planning reforms are needed that maintain the best of the current system but introduce the resources and skills needed to produce better plans that provide the necessary foundation of quality development and place-making and truly tackling the challenges of sustainability.

The response to the white paper is submitted on behalf of, and co-authored by, the following UCL academics:

- **Professor Nick Gallent**, Professor of Housing and Planning
- **Dr Lauren Andres**, Associate Professor in Urban Planning
- **Professor Matthew Carmona**, Professor of Planning and Urban Design
- **Dr Ben Clifford**, Associate Professor in Spatial Planning and Government
- **Professor Claudio De Magalhaes**, Head of the Bartlett School of Planning and Professor in Urban Management and Regeneration
- **Dr Dan Durrant**, Lecturer in Infrastructure Planning
- **Professor Michael Edwards**, Honorary Professor in the Economics of Planning
- **Dr Jessica Ferm**, Associate Professor in Planning and Urban Management
- **Dr Sonia Freire Trigo**, Lecturer in Urban Planning
- **Dr Tommaso Gabrieli**, Lecturer in Real Estate
- **Dr Iqbal Hamiduddin**, Associate Professor in Transport Planning and Housing
- **Dr Katayoun Karampour**, Teaching Fellow in Urban Planning and Design
- **Dr Susan Moore**, Associate Professor in Urban Development and Planning
- **Professor Janice Morphet**, Visiting Professor
- **Dr Lucy Natarajan**, Senior Teaching Fellow in Urban Planning
- **Professor Yvonne Rydin**, Professor of Planning, Environment and Public Policy
- **Dr Pablo Sendra**, Associate Professor in Planning and Urban Design
- **Dr Michael Short**, Principal Teaching Fellow in Planning and Urban Conservation
- **Dr Catalina Turcu**, Associate Professor in Sustainable Development and Planning

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