

Report to Cabinet Member for Climate Change, Planning & Housing

Planning Reforms

22nd February 2023

Appendix C - An article from Planning Resource: “39 things you need to know about the government’s NPPF consultation”, December 2022

How housing need should be assessed, and the resulting figures applied

- 1 The government says it will review the implications for the standard method of new household projections data based on the 2021 Census, which is due to be published in 2024. But it is not proposing any changes to the standard method formula itself through this consultation.
- 2 More explicit indications will be given in planning guidance of the types of local characteristics which may justify the use of an alternative method of assessing housing need, the document says. Examples could include islands with a high percentage of elderly residents, or university towns with an above-average proportion of students
- 3 The need to avoid development that would be uncharacteristically dense for the area can outweigh the requirement to meet local housing need, the draft NPPF revision says. This calculation should be made taking into account the principles in local design guides or codes, the document says
- 4 Authorities would not need to review their green belts, even if meeting housing need would be impossible without such a review. A draft NPPF revision is intended to make clear that local planning authorities are not required to review and alter Green Belt boundaries if this would be the only way of meeting need in full.
- 5 Councils would be able to take past over-delivery of housing into account when assessing housing need. The draft NPPF is intended to make clear that, if permissions that have been granted exceed the provision made in the existing plan, that surplus may be deducted from what needs to be provided in the new plan.
- 6 The test of ‘soundness’ for local plans is to be softened. The draft NPPF revisions say that plans will no longer be required to be ‘justified’. Instead, the examination would assess whether the local planning authority’s proposed target meets need so far as possible, takes into account other policies in the Framework, and will be effective and deliverable, the consultation says. For the purposes of the changes to the test of soundness, the government proposes “that these will not apply to plans that have reached pre-submission consultation stage, plans that reach that stage within three months of the introduction of this policy change, or plans that have been submitted for independent examination”.
- 7 The government intends to retain the uplift of 35 per cent to the assessed housing need for the 20 largest towns and cities in England. The draft NPPF revisions would require that this uplift is, “so far as possible”, met by the towns and cities concerned rather than exported to surrounding areas, except where there is voluntary cross-boundary agreement to do so.

- 8 The duty to co-operate is to be replaced with an as-yet-unformulated “alignment policy”. The duty will remain in place until those provisions come into effect, the document says, and “further consultation on what should constitute the alignment policy will be undertaken”.
- 9 Some authorities with emerging local plans will benefit from a reduced housing land supply requirement. For the purposes of decision-making, where emerging local plans have been submitted for examination or where they have been subject to a Regulation 18 or 19 consultation which included both a policies map and proposed allocations towards meeting housing need, those authorities will benefit from a reduced housing land supply requirement, the consultation says. This will be a requirement to demonstrate a four-year supply of land for housing, instead of the usual five. These arrangements would apply for a period of two years from the point that these changes to the Framework take effect, the document adds.

Changes to the housing delivery test and five year housing land supply test

- 10 Authorities with an up-to-date local plan will no longer need to continually show a deliverable five-year housing land supply. In this case, “up-to-date” means where the housing requirement as set out in strategic policies is less than five years old, the document says. The government proposes the change to take effect when it publishes the revised National Planning Policy Framework, “expected in Spring 2023”.
- 11 Councils would no longer have to provide five-year housing land supply buffers
- 12 Local planning authorities would be allowed to include historic oversupply in their five-year housing land supply calculations. This would be implemented by amending the Framework and planning practice guidance, the document says.
- 13 Evidence of sufficient deliverable permissions could save councils from the most severe Housing Delivery Test sanction. The document proposes to add to the test an additional permissions-based test. This will ‘switch off’ the application of ‘the presumption in favour of sustainable development’ as a consequence of under-delivery, where a local planning authority can show sufficient permissions for enough deliverable homes to meet their own annual housing requirement or, where lacking an up-to-date plan, local housing need, plus an additional contingency based on the number of planning permissions that are not likely to be progressed or are revised (which the government proposes defining as 115 per cent of the housing requirement or local housing need).
- 14 The government is considering suspension or amendment of the usual consequences of failure of the 2022 Housing Delivery Test. “Given our proposed changes,” the document says, “we would like to receive views on whether the test’s consequences should follow from the publication of the 2022 Test or if they should be amended, suspended until the publication of the 2023 Housing Delivery Test, or frozen to reflect the 2021 Housing Delivery Test results while work continues on our proposals to improve it”.

Measures to tackle slow build-out of permissions

- 15 Past “irresponsible planning behaviour” by applicants could in future be taken into account when applications are being determined. As examples of such applicant behaviour, the document cites “persistently breaching planning controls or failing to

deliver their legal commitments to the community”. Primary legislation would be needed to enact such measures, on which the government is seeking views, the document states.

- 16 Government data will be published on developers of sites over a certain size who fail to build out according to their commitments. This, like the measures mentioned in points 17 and 18, will be introduced via changes to national planning policy following the passage of the Levelling Up Bill, the document says.
- 17 Developers will be required to explain how they propose to increase the diversity of housing tenures to maximise a development scheme’s absorption rate (which is the rate at which homes are sold or occupied).
- 18 Delivery will become a material consideration in planning applications. “This could mean that applications with trajectories that propose a slow delivery rate may be refused in certain circumstances,” the document says..
- 19 A financial penalty for developers that are building out too slowly will be consulted on separately, the document says.

Onshore wind development/energy efficiency

- 20 Onshore wind power schemes would in future be able to go ahead on sites that have not been designated in the local plan. The government says its proposed changes to the existing NPPF footnote 54 will ensure that “local authorities have a range of routes to demonstrate their support for certain areas in their boundaries to be suitable for onshore wind”
- 21 Replacing the old turbines with more powerful and efficient models will be made easier. Changes to paragraphs 155 and 158 of the existing NPPF will enable the re-powering of renewable and low carbon energy schemes where planning permission is needed, and providing that the impacts of any development proposal are or can be made acceptable in planning terms, the document says.
- 22 The NPPF will be amended with a new paragraph 161 to give “significant weight” to the importance of energy efficiency through adaptation of buildings. But the document says that this will be done in a way that ensures that local amenity and heritage continues to be protected.

Environmental protection and tackling climate change

- 23 Steps will be taken to prevent developers ‘gaming’ Biodiversity Net Gain rules by clearing habitats before submitting applications. “We will work with Defra to review the current degradation provisions for Biodiversity Net Gain”, the document says, “to reduce the risk of habitat clearances prior to the submission of planning applications, and before the creation of off-site biodiversity enhancements”.
- 24 Use of artificial grass by developers in new development would be clamped down on. “We will consider how we can halt “the threat to wildlife created by the use of artificial grass by developers in new development (noting the importance of some uses of artificial grass such as on sports pitches)”, the document says.
- 25 The possibility of embedding a broad form of carbon assessment in planning policy will be explored. “We are interested in whether effective and proportionate ways of deploying a broad carbon assessment exist, including what they should measure,

what evidence could underpin them ... and how they may be used in a plan-making context or as a tool for assessing individual developments”, the document says.

- 26 Policy and guidance in relation to the production of Strategic Flood Risk Assessments will be reviewed. “This will be done to encourage maximum coverage and more frequent updates”, the document says..

Plan-making

- 27 Steps are being taken to maximise the amount of authorities who can make use of policy changes around plan-making intended to be introduced by NPPF revisions in the Spring, before the revised plan-making system set out in the Levelling Up Bill is introduced in late 2024. Plan-makers will have until 30 June 2025 to submit their local plans, neighbourhood plans, minerals and waste plans, and spatial development strategies for independent examination under the existing legal framework. The government is also proposing that, to be examined under existing legislation, all independent examinations of local plans, minerals and waste plans and spatial development strategies must be concluded, with plans adopted by 31 December 2026.
- 28 Authorities will be required to start work on new plans by, at the latest, five years after adoption of their previous plan, and to adopt that new plan within 30 months. “Under the reformed system, which we expect to go live in late 2024, there will be a requirement for local planning authorities and minerals and waste planning authorities to start work on new plans by, at the latest, five years after adoption of their previous plan, and to adopt that new plan within 30 months,” the document says.
- 29 Authorities that do not meet the 30 June 2025 submission deadline for ‘old-style’ plans will need to prepare plans under the new plan-making system.
- 30 Plans that will become more than five years old during the first 30 months of the new system will continue to be considered ‘up-to-date’ for decision-making purposes for 30 months after the new system starts. Where a plan has been found sound subject to an early update requirement, and the Inspector has given a deadline to submit an updated plan within the first 30-months of the new system going live, this deadline will be extended to 30-months after the new system goes live, the document says
- 31 Authorities will no longer be able to prepare supplementary planning documents (SPDs) in the revised planning system. Instead, they will be able to prepare Supplementary Plans, the document says, which will be afforded the same weight as a local plan or minerals and waste plan. The government proposes that, when the new system comes into force (expected late 2024), existing SPDs will remain in force for a time-bound period; until the local planning authority is required to adopt a new-style plan. Current SPDs will automatically cease to have effect at the point at which authorities are required to have a new-style plan in place, it says.

National development management policies

- 32 There is intended to be a consultation next year on how National Development Management Policies (NDMPs) are implemented. They will cover planning considerations that apply regularly in decision-making across England or significant parts of it, the document says, such as general policies for conserving heritage assets, and preventing inappropriate development in the Green Belt and areas of

high flood risk. Before any NDMP was designated by the secretary of state, there would be a public consultation

- 33 The starting point for creating NDMPs would be existing parts of the NPPF that apply to decision-making. “However, we welcome views on whether there are other topics that should be added,” the document says. Two other categories for NDMPs, in the government’s “initial view”, are firstly, “selective new additions to reflect new national priorities, for example net zero policies that it would be difficult to develop evidence to support at a district level, but which are nationally important”, and secondly “selective new additions to close ‘gaps’ where existing national policy is silent on planning considerations that regularly affect decision-making across the country (or significant parts of it)”. Indicative examples of ‘gaps’ where national policy is silent on common decision-making issues, which the documents says NDMPs might address, are: carbon reduction in new developments; allotments and housing in town centres and built-up areas.
- 34 NDMPs will cover “only matters that have a direct bearing on the determination of planning applications. Other key principles, according to the consultation, are that they would be “limited to key, nationally important issues commonly encountered in making decisions on planning applications across the country (or significant parts of the country); and that they would solely address planning issues, “in other words that concern the development and use of land”.

Other

- 35 Authorities will be expected to take particular care to ensure that they meet need for retirement housing, housing-with-care and care homes. The government proposes to do this by adding an additional specific expectation to the NPPF.
- 36 Authorities will be encouraged to use planning conditions to require clear details of a scheme’s design and materials. The document says: “We propose to amend the Framework to encourage local planning authorities to consider how they can ensure that planning conditions associated with applications reference clear and accurate plans and drawings which provide visual clarity about the design of development, as well as clear conditions about the use of materials where appropriate, so they can be referred to as part of the enforcement process”.
- 37 Mansard roofs would be encouraged. The government is proposing that “a reference to mansard roofs as an appropriate form of upward extension ... where appropriate” should be added to the NPPF.
- 38 Protection against development that conflicts with neighbourhood plans is to be extended to older such plans. The NPPF currently says that the adverse impact of allowing development that conflicts with the Neighbourhood Plan is likely to outweigh the benefits, but not if that plan is more than two years old. The government is proposing that the protection should be extended to plans that are up to five years old. It is also proposing removing tests which currently mean local planning authorities need to demonstrate a minimum housing land supply and have delivered a minimum amount in the Housing Delivery Test for Neighbourhood Plans to benefit from the protection.
- 39 Planning for provision of social rent homes is to be given higher priority in the NPPF, the document says.