

## **LEVELLING-UP AND REGENERATION BILL: REFORMS TO NATIONAL PLANNING POLICY**

### **Chapter 3 – Providing certainty through local and neighbourhood plans**

- 1 Do you agree that local planning authorities should not have to continually demonstrate a deliverable 5-year housing land supply (5YHLS) as long as the housing requirement set out in its strategic policies is less than 5 years old?**

Yes.

- 2 Do you agree that buffers should not be required as part of 5YHLS calculations (this includes the 20% buffer as applied by the Housing Delivery Test)?**

Yes. Also needs to be made clear that this requirement isn't required as part of the plan-making process (i.e., demonstrating a 5YLS upon adoption of the plan).

- 3 Should an oversupply of homes early in a plan period be taken into consideration when calculating a 5YHLS later on or is there an alternative approach that is preferable?**

Yes.

- 4 What should any planning guidance dealing with oversupply and undersupply say?**

It should include a 'model' calculation detailing all appropriate and allowable data inputs.

- 5 Do you have any views about the potential changes to paragraph 14 of the existing Framework and increasing the protection given to neighbourhood plans?**

The additional protection given to NDPs is supported and should go further to include plans that do not necessarily include allocations.

### **Chapter 4 - Planning for housing**

- 6 Do you agree that the opening chapters of the Framework should be revised to be clearer about the importance of planning for the homes and other development our communities need?**

Yes

- 7 What are your views on the implications these changes may have on plan-making and housing supply?**

The Council supports the view that having a plan in place, even if it does not meet an areas needs in full (of the LPA itself, or as part of a contribution towards a larger housing market area) will result in a boost to housing supply and would be preferable to having no plan at all.

- 8 Do you agree that policy and guidance should be clearer on what may constitute an exceptional circumstance for the use of an alternative approach for assessing local housing needs? Are there other issues we should consider alongside those set out above?**

The standard method (SM) should replace the need to use 2014 based household projections (HHP) as soon as possible, and not wait until 2021 census based HHPs are available. In the meantime, the SM should allow the use of the 2018 based HHPs as they are

more up-t-date. It makes a nonsense out of an evidenced based approach to be forced to use out of date data.

Whilst the standard method has resulted in some savings at EiPs over how need is calculated, the potential for this to increase remains if more flexibility is given to LPAs. Therefore, PPG should set out a set of circumstances that LPAs can chose to use, and provided a standard selection is made there should be no further need to justify the use of these additional factors.

**9 Do you agree that national policy should make clear that Green Belt does not need to be reviewed or altered when making plans, that building at densities significantly out of character with an existing area may be considered in assessing whether housing need can be met, and that past over-supply may be taken into account?**

Yes, this should be made clear, but also needs to go further to ensure that responsible LPAs that are making some GB release are not required to alter GB boundaries to accommodate need in full. As currently drafted it could be interpreted as either make no GB releases or review GB boundaries to accommodate needs in full. The policy change should not penalise those LPAs making some GB releases, even if there are not then meeting their needs in full.

**10 Do you have views on what evidence local planning authorities should be expected to provide when making the case that need could only be met by building at densities significantly out of character with the existing area?**

PPG should set out a standard approach and criteria to use in such assessments as a starting point, which then depending on local circumstances could be varied if justified.

We would expect evidence to be proportionate and could for example include a review of existing local densities having regard to historic and more recent developments.

Guidance should also be clear if density consideration should apply to net or gross density and in doing so highlight what site elements should and should not be considered.

**11 Do you agree with removing the explicit requirement for plans to be 'justified', on the basis of delivering a more proportionate approach to examination?**

Yes, although will still be required to 'evidence, inform and explain'. The key issue is getting the right balance on proportionality of the evidence/justification.

**12 Do you agree with our proposal to not apply revised tests of soundness to plans at more advanced stages of preparation? If no, which if any, plans should the revised tests apply to?**

No. There appears to be no justification why plans at an advanced stage (including those an EiP should not benefit from the new test – it would not add any new burden to LPAs already at an advanced stage, and could assist in making the EiP more streamlined or assist with overcoming uncertainty with a plan.

**13 Do you agree that we should make a change to the Framework on the application of the urban uplift?**

The 35% uplift should be removed from the standard method. It does not relate to an area's own needs and most cities and urban centres are already having difficulty accommodating their own needs, thus putting pressure on adjoining areas unnecessarily.



**14 What, if any, additional policy or guidance could the department provide which could help support authorities plan for more homes in urban areas where the uplift applies?**

If the basis for the urban uplift is to remain, then it should be a requirement (not just an aim) that it is accommodated in the urban areas itself. It should not be a component that could be passed to an adjoining area as this would undermine the rationale for requiring the uplift.

**N.B. 13 of the 20 cities are surrounded by Green Belt, additional 1 only to the west, of the remainder, 4 are coastal. (see [Green Belt Map - Updated for 2022 | Urbanist Architecture](#))**

There may also need to be a review of how density policy is used within urban areas to help drive an 'urban uplift' and maximise capacity. By imposing such a policy driver on the largest urban areas there would have to be a national acceptance that higher densities will be necessary but may not be in-keeping with existing density patterns or character. This however would need to be set in the context of driving urban regeneration of major urban centres and creating a 'new character'.

**15 How, if at all, should neighbouring authorities consider the urban uplift applying, where part of those neighbouring authorities also functions as part of the wider economic, transport or housing market for the core town/city?**

See answer to question 14.

**16 Do you agree with the proposed 4-year rolling land supply requirement for emerging plans, where work is needed to revise the plan to take account of revised national policy on addressing constraints and reflecting any past over-supply? If no, what approach should be taken, if any?**

Yes.

**17 Do you consider that the additional guidance on constraints should apply to plans continuing to be prepared under the transitional arrangements set out in the existing Framework paragraph 220?**

No comment

**18 Do you support adding an additional permissions-based test that will 'switch off' the application of the presumption in favour of sustainable development where an authority can demonstrate sufficient permissions to meet its housing requirement?**

Yes.

**19 Do you consider that the 115% 'switch-off' figure (required to turn off the presumption in favour of sustainable development Housing Delivery Test consequence) is appropriate?**

The additional 15% is effectively a contingency to counter permissions that are not implemented. Local evidence is that this should be 10% rather than 15%.

**20 Do you have views on a robust method for counting deliverable homes permissioned for these purposes?**

The HDT is a test over a given period of time (a three-year period), and so all permissions granted within that period could be counted. This is different from a 5YLS calculation which is a measure at a specific point in time and would only count permissions that were 'live' on that particular date.

**21 What are your views on the right approach to applying Housing Delivery Test consequences pending the 2022 results?**

The 2021 HDT results should be used until a revised method for the 2022 results has been put in place.

**Chapter 5 - A planning system for communities**

**22 Do you agree that the government should revise national planning policy to attach more weight to Social Rent in planning policies and decisions? If yes, do you have any specific suggestions on the best mechanisms for doing this?**

NPPF identifies that affordable housing is a strategic policy and Local Plans should set out an overall strategy for the scale and make sufficient provision for housing (including affordable housing). Paragraph 61 of NPPF (page 17) makes it clear that these policies should be justified by evidence of a local housing needs assessment.

Paragraph 62 of NPPF (page 17) goes on to state: Within this context, the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies (including, but not limited to, those who require affordable housing, families with children, older people, students, people with disabilities, service families, travellers, people who rent their homes and people wishing to commission or build their own homes).

Affordable housing as defined at Annex 2 of NPPF highlights a range of affordable tenures which can be deployed to meet the differing needs of different boroughs. However, this can create confusion, especially between 'social rent' and 'affordable rent' and how these tenures meet identified housing need.

For example, the Solihull HEDNA (Housing and Economic Development Needs Assessment) identifies that 16% of households can afford an affordable rent but this does not automatically lead to a policy conclusion on the split between the two types of rented housing. For example, many households who will need to access rented accommodation will be benefit dependent and as such could technically afford an affordable rent (as long as the full rent is covered by Housing Benefit) and hence a higher proportion of affordable rented housing might be appropriate. Providing more social rented housing might enable households to return to work more easily, as a lower income would potentially be needed to afford the lower social (rather than affordable) rent. Finally, in considering a split between social and affordable rented housing it needs to be considered that having different tenures on the same site (at least at initial occupation) may be difficult – essentially if tenants of the same home are paying a different rent for the same property and services.

The Solihull Local Plan Policy P4a therefore requires a 40% affordable housing contribution on eligible schemes (using the national NPPF threshold for developments of 10 or more homes, or site has an area of 0.5 ha or more). Of that 65% of the affordable requirement shall be provided as social rent and 35% as shared ownership. This has worked well with Registered Providers investing in Solihull and entering into agreements with developers for the affordable housing negotiated.

Therefore, yes, it would be welcome for the reasons set out above for social rent can be included specifically in paragraph 62. NPPF paragraph 62 should also be clear that not only affordable housing policies should be set, but that this should include social rent, informed by local evidence.

**23 Do you agree that we should amend existing paragraph 62 of the Framework to support the supply of specialist older people’s housing?**

New paragraph 63 says that,

“Within this context of establishing need, the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies (including, but not limited to, : those who require affordable housing, ; families with children, ; older people including for retirement housing, housing-with-care and care homes;; students, ; people with disabilities, ; service families, ; travellers; people who rent their homes and people wishing to commission or build their own homes).”

The references to older people in the NPPF must be read alongside the National Planning Policy Guidance (NPPG) ‘Housing for older and disabled people’.

Existing paragraph 62 of the NPPF is clear that within the context of the standard method to determine the minimum number of homes needed, the needs of older people must be taken into account and paragraph: 010 Reference ID: 63-010-20190626 of the NPPG sets out the different types of specialist housing for older people.

It is unclear to the Council what additional value the proposed addition to the NPPF of ‘including for retirement housing, housing-with-care and care homes’ provides as all LPAs bringing forward new local plan policies since this NPPG was published in June 2019 should be doing this. Nevertheless, the Council supports the proposed change as providing additional clarity and strength to this part of the NPPG.

**24 Do you have views on the effectiveness of the existing small sites policy in the National Planning Policy Framework (set out in paragraph 69 of the existing Framework)?**

The Council has a significant proportion of its housing supply come forward on windfall sites, which, by their very nature, tend to be smaller sites. Ensuring these sites can count towards the supply of smaller sites is critical.

**25 How, if at all, do you think the policy could be strengthened to encourage greater use of small sites, especially those that will deliver high levels of affordable housing?**

There seems to be less evidence that larger sites are sub-divided to allow parcels of less than 1ha to be made available to SME builders, and consideration should be given as to additional powers to enable LPAs to require this as part of larger developments.

**26 Should the definition of “affordable housing for rent” in the Framework glossary be amended to make it easier for organisations that are not Registered Providers – in particular, community-led developers and almshouses – to develop new affordable homes?**

The Council recognises the benefit that almshouse accommodation provides. Generally, we have been keen to encourage their work and almshouse provision can be seen as a form of

'community-led housing'. It is important to say firstly that almshouses can provide affordable housing, but they must also then be a Registered Provider, so as to come under the coverage of the Regulator of Social Housing.

It is important that within the NPPF the local authority is able to use the appropriate affordable tenures for its area as indicated by its evidence base (see Paragraph 61 and 62 of NPPF). Local authorities therefore require flexibility to meet their local housing needs and devise local plan policy on affordable tenure that is part of an evidence-based approach. There is an important reason for this: the Council has a borough-wide housing needs responsibility and an allocated site will need to provide for needs arising anywhere in the borough. This means that with regards to the social rented part of affordable housing developed under policy P4A, a Registered Provider must make its properties available to all on the Council's housing waiting list. For the Council to meet its legal duties under homeless and housing legislation a secure or assured tenancy must be provided. Almshouse accommodation is let on a license and the occupier is a beneficiary of the charity and must qualify for the charity's specific criteria.

Community-led developers and almshouses could be provided on exception sites, when supported by local parishes and neighbourhoods plan areas. It would be more welcome if there was a separate definition and exemptions for community-led development and almshouses on exception sites or sites allocated by a neighbourhood plan. This would have the added benefit of being community led and local consultation through the development of a neighbourhood plan.

**27 Are there any changes that could be made to exception site policy that would make it easier for community groups to bring forward affordable housing?**

It is important that national planning policy makes provision for local parishes and neighbourhoods to meet their local needs and exception site policy should also include community-led developers and almshouses as well as maintain the position on rural exception sites. Solihull's adopted Local Plan makes provision for this through a rural exceptions policy. However, as Solihull's policy, this should only happen when the proposals are supported by local parishes and neighbourhoods plan areas. Therefore again, it would be more welcome if there was a separate definition and exemptions for housing for community-led development and almshouses.

**28 Is there anything else that you think would help community groups in delivering affordable housing on exception sites?**

It is important that community led housing groups have access to capital funding, such as the Affordable Homes Programme, without having to be a Registered Provider, or through having light touch registration.

**29 Is there anything else national planning policy could do to support community-led developments?**

It is important that the Council can set policies that meet the needs of affordable housing through the setting of borough wide policies. Therefore, it would be helpful if direction through NPPF/PPG would be given that stated windfall or rural exception site policies are

there for rural housing, community-led developers and almshouses with the support of local parishes and neighbourhoods plan areas.

**30 Do you agree in principle that an applicant's past behaviour should be taken into account into decision making?**

Yes, but this present two difficulties in particular: (1) establishing what constitutes past irresponsible behaviour and how this can be established to a sufficient level of proof and (2) if permissions are not forthcoming based on this assessment, it won't help improve supply.

**31 Of the two options above, what would be the most effective mechanism? Are there any alternative mechanisms?**

Option 2

**32 Do you agree that the 3 build out policy measures that we propose to introduce through policy will help incentivise developers to build out more quickly? Do you have any comments on the design of these policy measures?**

Financial penalties are considered to be the most robust way to increase build out rates (for instance the ability to charge Council Tax on as yet uncompleted dwellings that fall behind a build-out-rate), but of course wider financial factors could impact on delivery, and this would need to be factored in. Losing permissions would not necessarily be helpful as to get delivery moving again, as (another) developer would then have to take time and resources to securer another permission.

## **Chapter 6 – Asking for Beauty**

**33 Do you agree with making changes to emphasise the role of beauty and placemaking in strategic policies and to further encourage well-designed and beautiful development?**

The elevated status of design in the planning process is welcomed and necessary. A key principle is how development improves the character and quality of an area and how it integrates to create successful, inclusive and sustainable places that benefit people and communities at all stages of life and with different needs.

Emphasising the role of placemaking in both strategic policies and in the development management process is therefore supported. However, whilst high quality design is fundamental to what the planning and development process should achieve, the terms 'beauty' and 'beautiful' are more subjective and open to interpretation.

Without further explanation and interpretation of what constitutes 'beauty' and 'beautiful', the subjectivity of what may be considered beautiful is likely to generate debate and potential objection. This would not meet the intended aim of making communities more welcoming of development, nor would it speed up the planning process.

Notwithstanding this, the preparation and use of local design codes is welcomed, as it will provide certainty and clarity on what would and would not be acceptable, particularly when supported by effective community engagement. However, this will require local planning authorities to be appropriately skilled and resourced.



- 34 Do you agree to the proposed changes to the title of Chapter 12, existing paragraphs 84a and 124c to include the word ‘beautiful’ when referring to ‘well-designed places’, to further encourage well-designed and beautiful development?**

Whilst it is agreed that there should be further encouragement of well designed places and development, it is not considered that the word ‘beautiful’ by itself would necessarily add anything meaningful, given the subjectivity of the term. As referred to above, further explanation and interpretation would be required.

- 35 Do you agree greater visual clarity on design requirements set out in planning conditions should be encouraged to support effective enforcement action?**

Whilst greater clarity is always helpful, accurate and clear plans should always be submitted as standard as part of the planning application process. It is considered that a key issue is the enforcement of plans and conditions which require staff to have the time, skills and resources to ensure that the design quality of approved development is not materially diminished after a scheme is permitted. This needs to be complemented by clear and up to date policy, supporting planning guidance, and well worded, enforceable conditions.

- 36 Do you agree that a specific reference to mansard roofs in relation to upward extensions in Chapter 11, paragraph 122e of the existing framework is helpful in encouraging LPAs to consider these as a means of increasing densification/creation of new homes? If no, how else might we achieve this objective?**

No. Whilst mansard roofs are one way of increasing densification / creation of new homes, they may not be appropriate in all circumstances. To include a specific reference to mansard roofs could be seen as elevating their status as a preferred approach, to the disadvantage of other options which may be more suitable to the local context. Reference to mansard roofs could be identified as one example of how the objective could be achieved.

## **Chapter 7 - Protecting the environment and tackling climate change**

- 37 How do you think national policy on small scale nature interventions could be strengthened? For example, in relation to the use of artificial grass by developers in new development?**

Any interventions that benefit the natural environment should be supported, as even ‘small-scale’ interventions, if carried out everywhere, can have a large impact on nature improvements, especially to habitat connectivity. Solihull Council’s Wildlife Ways (ERDF funded) project used wildflower turf, bulb planting and wildflower seeding on road verges, and has created habitat corridors that have strengthened our existing habitat network and provided connections between larger sites such as parks and nature reserves. National policy could incentivise the use of the interventions such as wildflower turf on road verges, so that it is easier for others to follow this model.

Agree that artificial grass is not environmentally friendly and is hard to maintain.

**38 Do you agree that this is the right approach making sure that the food production value of high value farm land is adequately weighted in the planning process, in addition to current references in the Framework on best most versatile agricultural land?**

Agree that the food production value of high value farmland should be adequately weighted in the planning process, but the proposed change needs to provide further guidance on the relative weight to be applied to BMV agricultural land against other policy considerations, and on the threshold for significant development.

It is also important that this weighting should not be at the detriment or loss of important areas of habitat such as grasslands, woodlands, hedgerows or wetlands.

Landowners should also be incentivised to protect, create and enhance new areas of habitat within their farms.

**39 What method or measure could provide a proportionate and effective means of undertaking a carbon impact assessment that would incorporate all measurable carbon demand created from plan-making and planning decisions?**

Carbon Impact Assessments are useful measures to calculate the carbon demand of plan-making and planning decisions, however, the guidelines should be provided on what constitutes 'all measurable carbon' to ensure consistency across the country. The Carbon Impact Assessments should also be linked to any Council commitment to lowering carbon emissions.

Furthermore, local authorities will require further support (skills, trained staff and resources) to be able to commission and/or verify such statements, especially at decision-taking level.

**40 Do you have any views on how planning policy could support climate change adaptation further, specifically through the use of nature-based solutions that provide multi-functional benefits?**

Agree that green and blue infrastructure are key components of the national and local adaptation plans to mitigate the impacts of the climate change.

NPPF/PPG need to include reference to level of protection afforded to land that is used for nature-based solutions. We have seen instances where land adjacent to a development site, that has been purposed for SUDs/habitat creation, will then come forward for development at a later date, citing development need over multi-functional benefits.

Planning policy should require developers to consider nature-based solutions such as multi-functional green and blue infrastructure assets (e.g. SUDS) at the earliest stages of the planning process, so that opportunities to maximise the benefits from these features are realised. Retention of existing GI features such as trees, vegetation, watercourses should be prioritised and developments designed around them, rather than the other way round.

## **Chapter 8 – On shore wind and energy efficiency**

**41 Do you agree with the changes proposed to Paragraph 155 of the existing National Planning Policy Framework?**

Yes. {i.e., Agree that strategies aimed at increasing the use and supply of renewable and low carbon energy and heat should also consider the future re-powering and maintenance of installations, as well as the suitability of the location and addressing any adverse impacts}

**42 Do you agree with the changes proposed to Paragraph 158 of the existing National Planning Policy Framework?**

Yes.

**43 Do you agree with the changes proposed to footnote 54 of the existing National Planning Policy Framework? Do you have any views on specific wording for new footnote 62?**

Sic – think this refers to footnote 63 not 54? As FN 54 is an outdated Design Guidance.

FN 63 – Agree that a supplementary planning document could identify an area as suitable for wind energy development (where the development plan includes policy on supporting renewable energy), but this should also apply to other types of energy.

FN 62 – Agree that wind energy development involving one or more turbines can be granted through Local Development Orders, Neighbourhood Development Orders and Community Right to Build Orders, if it can be demonstrated that the planning impacts identified by the affected local community have been appropriately addressed and the proposal has community support – and the local planning authority.

**44 Do you agree with our proposed Paragraph 161 in the National Planning Policy Framework to give significant weight to proposals which allow the adaptation of existing buildings to improve their energy performance?**

Yes.

## **Chapter 9 – Preparing for the new planning system**

**45 Do you agree with the proposed timeline for finalising local plans, minerals and waste plans and spatial development strategies being prepared under the current system? If no, what alternative timeline would you propose?**

Yes, but additional flexibility should be given to plans that have been submitted to examination, as the timescales for completing the examination are not entirely in the hands of the LPA.

**46 Do you agree with the proposed transitional arrangements for plans under the future system? If no, what alternative arrangements would you propose?**

Yes.

**47 Do you agree with the proposed timeline for preparing neighbourhood plans under the future system? If no, what alternative timeline would you propose?**

Yes

**48 Do you agree with the proposed transitional arrangements for supplementary planning documents? If no, what alternative arrangements would you propose?**

Not a comment on transitional arrangements, but on the principle of removing the potential for SPDs. Whilst they are to be replaced with SPs, these are expected to be longer and more burdensome to produce. The ability to produce SPDs should be retained on the basis they are not setting new policy, but providing guidance on the application of existing policy.

**Chapter 10 – National development management policies**

**49 Do you agree with the suggested scope and principles for guiding National Development Management Policies?**

Yes, in principle the approach set out appears reasonable. It is noted that reference is made to the National DM policies not duplicating guidance covered in other legislation, however there is often a fine line between some of these aspects, including matters of noise or building standards that are important to consider as part of a DM approach. It is also noted that bullet point 3 states “that local planning authorities can go above certain minima set through building standards”. We would agree that this is important for this point in relation to matters of combating climate change, but also in a wider context. It is our view that whilst National DM policies will have value, they should carry a caveat that would allow Local Planning Authorities to prepare their own version of a specific policy if robust local evidenced provided the basis for doing so.

**50 What other principles, if any, do you believe should inform the scope of National Development Management Policies?**

Note the response above.

**51 Do you agree that selective additions should be considered for proposals to complement existing national policies for guiding decisions?**

We would not object to these points being covered by National DM policies. In relation to housing in town centres, please note our earlier point in relation to uplift to housing needs in major urban areas and matters of density and design.

**52 Are there other issues which apply across all or most of England that you think should be considered as possible options for National Development Management Policies?**

Opportunity and need for NDMPs to provide greater clarity and guidance with regard to the significance of public health matters in the planning balance for plan-making and decision-taking, e.g. the current NPPF and associated guidance is not very clear on health priorities, evidence-approaches and in particular the use of Health Impact Assessments.

**Chapter 11 – Enabling levelling up**

**53 What, if any, planning policies do you think could be included in a new framework to help achieve the 12 levelling up missions in the Levelling Up White Paper?**

No comment.

**54 How do you think that the framework could better support development that will drive economic growth and productivity in every part of the country, in support of the Levelling Up agenda?**

Provide more detailed guidance on the approach to strategic scale developments, which whilst attracting investment and employment from a wider area, still play a part in accommodating local employment needs.

**55 Do you think that the government could go further in national policy, to increase development on brownfield land within city and town centres, with a view to facilitating gentle densification of our urban cores?**

The Framework already supports such an approach, but more could be done to ensure integrated with, for instance, public transport investment and financial assistance to bring back into use derelict or underused sites.

**56 Do you think that the government should bring forward proposals to update the framework as part of next year's wider review to place more emphasis on making sure that women, girls and other vulnerable groups in society feel safe in our public spaces, including for example policies on lighting/street lighting?**

Safe streets/public places for all is an appropriate and welcome part of the NPPF and this could be supported with additions to the PPG, especially to include any specific guidance on how streets/public places could be made safer for women, girls and other vulnerable groups.

**Chapter 13 – Practical changes and next steps**

**57 Are there any specific approaches or examples of best practice which you think we should consider to improve the way that national planning policy is presented and accessed?**

It was particularly helpful to have a tracked change version of the NPPF changes, and when the final version is issued in spring it should be published in two formats (1) a 'clean copy' and (2) a tracked change version showing differences from the July 2021 version.

**58 We continue to keep the impacts of these proposals under review and would be grateful for your comments on any potential impacts that might arise under the Public Sector Equality Duty as a result of the proposals in this document.**

No comment.