

Levelling Up and Regeneration Bill

Westminster City Council Response (February 2023)

Westminster City Council supports the principle of the approach to updating the existing National Planning Policy Framework. We acknowledge that a fuller review of the Framework, and the implementation on the government's proposals for wider changes to the planning system, including the Levelling-Up and Regeneration Bill is to take place in due course. Much of the detail is still to come and we want to work closely with DLUHC to shape this to make sure these reforms deliver for all parts of the UK.

We answer the specific questions asked in the consultation below. We would be happy to provide further detail and work with DLUHC as it develops its response to the consultation.

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 five-year housing land supply (5YHLS) for as long as the housing requirement set out in its strategic policies is less than 5 years old?**

Yes, we would agree with this approach. A 5YHLS is tested at Local Plan examination and so it seems reasonable that this does not need to be revisited until 5 years has passed, or at the time the Local Plan is reviewed.

- 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, this seems a reasonable approach to simplify the process. There are a number of external factors that impact housing delivery which are outside the control of local authorities. It is welcomed that local authorities will not be penalised for under-delivery due to external factors.

- 3. Should an oversupply of homes early in a plan period be taken into consideration when calculating a 5YHLS later on?**

Yes, this seems a reasonable approach, but we would need to be satisfied with how this would work in practice. It is widely understood that delivery of sites may not always align with intended completion dates. Therefore, flexibility should be factored into the 5YHLS to take into account early/late delivery.

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

The Housing Delivery Test (HDT) currently looks at delivery rates over the past three years. We would recommend that the HDT is increased to look at rates over five years so that this aligns with the 5YHLS and Local Plan trajectories. Guidance should recognise that phasing of schemes fluctuates and may mean that there will be high delivery one

year and low the next. This needs to be accounted for in the process so that local authorities aren't penalised where delivery has dipped due to phasing of schemes.

Guidance should also recognise that there is a difference between delivery and permissions and the level of control that Local Planning Authorities have over these.

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?

At Westminster we have embraced neighbourhood planning and fully support our local residents (and business where they are part of a neighbourhood forum) in developing neighbourhood plans. We therefore strongly support the proposal for protection to neighbourhood plans to be extended from 2 to 5 years, given the level of resource and time taken to prepare them.

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 however, we suggest that the introductory text for the Framework could be stronger on the importance of housing delivery, particularly affordable housing.

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

Where there is a regional spatial strategy setting out housing need (e.g. The London Plan) exists, this should remain in place and be the source of relevant local authority housing targets. Such strategies should be informed by meaningful assessments of housing land supply with all London boroughs inputting, taking into account deliverability and existing constraints identified.

The proposed changes in paragraph 61 of the NPPF, seek to address constraints within Local Planning Authorities by using "the outcome of the standard method [as] an advisory starting point for establishing a housing requirement for the area". We have concerns that the implications of this will inhibit growth nationwide.

This is similar with the changes proposed for NPPF paragraph 11b)ii. We are concerned that examples of "adverse impacts may include situations where meeting need in full would mean building at densities significantly out of character with the existing area" will inhibit growth of the existing area. There are examples of areas in sustainable locations where existing densities are low but where effective plan-making can increase densities to compliment the character, respond to existing needs and ensure that areas continue to grow. For example, at sites with new transport infrastructure planned (such as Crossrail).

The term “significantly out of character” is unhelpful and implies that areas will not change and do not have the ability to change the character of their area, which could lead to stagnation and entrench deprivation in some cases. Changes to existing character is not in all cases detrimental, this could in fact have a positive effect for existing areas and allow communities to grow and thrive. Additionally, areas with significant new development have the potential to define a new character for their area and evolve however, the proposed changes to the NPPF may restrict this process.

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?

As mentioned in response to Q7, as a London authority, housing need targets are set out in the London Plan. It could be that “an exceptional circumstance” could set out instances where there is a regional plan in place that sets out housing targets. A policy that clearly sets out where there are regional plans such as the London Plan are in place and what this means in practice – acknowledging the benefit of them - would be useful.

In addition, a methodology which considers affordability and adjustments to take into account affordability on land supply would be useful. The current NPPF and PPG do not set out how much of an adjustment should be applied on the basis of market signals¹. In practice, this has led to a range of adjustments being applied by local authorities. Therefore, a methodology to take into account affordability and land supply would be helpful.

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?

Westminster does not have any green belt land and therefore has no comment on the principle of reviewing this designation in light of housing need.

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?

The suggestion to provide evidence to make a case to build at greater densities that is out of character with the existing area is unhelpful. This assumes that existing character areas are good and should be preserved. There are instances of areas with poor existing character which would benefit from change. Instead, an approach to strengthen existing policies around good design for good growth should be made.

If evidence is required then we would suggest that this is kept as simple as possible, perhaps to take into account prevalence of listed buildings, conservation areas etc. It is

¹ Examples of market signals include: land prices, rents, affordability, rate of development, overcrowding

important that the level of detail required is not onerous, particularly for somewhere such as Westminster which contains a significant number of different character areas.

The level of evidence required also needs to be balanced with the overall amount needed for when entering examination. It needs to be recognised that authorities will need to feel confident that they have a robust evidence base to have the certainty that they can proceed through the examination process.

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?

It is unclear whether by removing the requirement for plans to be ‘justified’ is removing the need to provide an extensive evidence base or whether to remove the reasonable alternatives test.

Whilst a more proportionate approach to examination and evidence is supported, we do not agree with removing the requirement for plans to be justified. Removing the ‘justified’ test indicates that inappropriate strategies or those that do not have evidence or are supported by limited evidence are acceptable, provided they are deliverable and try to meet some growth needs. There is concern that this is likely to lead to bad plan-making and is a short-sighted approach to meeting growth needs.

We agree in principle with streamlining the examination process as there is a current burden on local authorities to prepare an extensive evidence base ahead of examination. This proposed change, however, has the potential to add to the complexity of the examination process and not work in practice. Local authorities may struggle to find the correct balance to provide proportionate evidence and feel confident when entering examination. To provide confidence that local authorities have provided sufficient robust evidence, the amount they produce may stay the same prior to this change. This has the potential to result in no real term benefit.

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?

This question is not applicable to us as Westminster City Plan 2019-2040 was adopted in April 2021 and we are not at an advanced stage of the partial City Plan review.

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

The application of an urban uplift has the potential to contradict with proposed changes to NPPF paragraph 61, if constraints to local areas are not taken into account. This proposed change must also recognise the need for non-residential uses within urban areas; in Westminster’s case, within the Central Activities Zone and International Shopping Centres, such as Oxford Street, which are important to the national economy. We question how applying the urban uplift to London sits within the governments wider levelling up objectives. The role of the Mayor in setting London's housing targets and

providing a strategic steer on competing uses in areas such as central London through the London Plan is of importance and should be retained.

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?

No comment.

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?

No comment.

16. Do you agree with the proposed four-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?

No comment.

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?

We support this approach. An additional 'permissions-based test' effectively recognises the inability of local authorities to wholly control housing delivery. This would result in a more reasonable test for local authorities to grant sufficient permissions to meet housing needs. This test should go further to include those sites in the Council's permissions-based list that are deliberately stalled sites. There are a number of instances in Westminster where applicants have gained multiple planning permissions that have been implemented and have received Lawful Development Certificates to demonstrate this, but the developers have no intention to deliver these approved schemes. Therefore, local authorities should not be penalised for non-delivery despite technical implementation (i.e., limited piling and ground works only).

We would also suggest the requirement for local authorities to prepare and publish an action plan, where delivery is below the number of homes planned for is removed. The preparation of an action plan is resource intensive and does not, in real terms, provide a solution to address delivery that is out of the control of local authorities. Where there is evidence of past under-delivery, these should be assessed as part of a Local Plan review.

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?

This seems a reasonable approach.

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

No specific views, however, would need to ensure that there is no double counting where schemes are subject to multiple permissions.

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

We do not believe the Housing Delivery Test consequences pending the 2022 results should be applied. There has been a national slow-down in build out rates linked to a variety of economic factors beyond the planning system. Local planning authorities should not be penalised for this, especially where sufficient permissions have been granted. The consequence of failing this test removes the ability for authorities to apply their own policies and requires them to produce action plans that are resource intensive and not effective in addressing the core issues. This also takes resources and time away from more effective plan-making activities.

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?

We strongly agree to this. We agree to increasing the amount of social housing available however, in seeking to increase new social homes provision through the planning system, it is also necessary to prevent the loss of existing social housing stock. The provision of new social homes must not justify further roll out of schemes such as right to buy etc.

Westminster has a limited number of larger sites that come forward for new housing and most development sites in Westminster are smaller sites of less than 0.25ha. The city has a diverse range of uses and home to key government departments, corporate headquarters and cultural and entertainment uses. In order for us to be able to deliver an increase in the amount of social housing available, we suggest that the scope of development that delivers affordable housing is widened to both major commercial development and small residential sites, in certain circumstances where it is proved necessary and justified in examination.

High land values can also present a challenge for affordable housing delivery, as it limits the council's ability to acquire additional land for housebuilding and challenge what

developers themselves can achieve on a site. Where developers find themselves over-paying for land, they use this as justification to not provide policy compliant levels of affordable housing on-site and to instead make payments in lieu to the Council. Therefore, a policy to address this issue and to prevent developers from over-paying for land and using this as justification to not provide on-site affordable housing would be welcomed.

A significant proportion of new housing has been delivered through permitted development rights, particularly within the Central Activities Zone (CAZ), which does not require affordable housing to be provided either on-site or through contributions. This results in a significant lack of new affordable housing being provided, particularly given the values that can be achieved by taking advantage of such conversions. A policy to require affordable housing to be provided where permitted development to residential takes place is strongly encouraged.

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

Yes, we agree with the proposed changes.

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)?

No comment.

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?

As mentioned previously, we suggest that the NPPF should make provisions to require small sites to provide affordable housing either on-site or through financial contributions, particularly in areas where there is evidence that a large proportion of housing delivery consists of small sites. Whilst we do not wish to disincentivise small sites from coming forward, this needs to be balanced against the wider aims/needs to deliver housing that is affordable and consistent with our City Plan. We believe a policy could be framed in such a way to ensure this approach is proportionate and minimises disincentive.

Furthermore, it should be recognised that removing the 'justified' test of soundness but retaining the test to ensure that plans are in conformity with the NPPF means that an affordable housing contribution from a small sites policy would fail to be sound, despite it being a justified departure from national policy. There may be other instances of this that should also be recognised and accounted for should the proposed changes to the tests of soundness in the Framework be taken forward.

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?

Agree in principle however, strict wording is needed to ensure that any 'community-led' developers are genuinely that, and that loopholes are not created for private developers to claim they are 'community-led' to avoid transferring affordable housing to a Registered Provider.

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?

No comment.

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

No comment.

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

No comment.

30. Do you agree in principle that an applicant's past behaviour should be taken into account into decision making? If yes, what past behaviour should be in scope?

We agree in principle to this approach and support a practicable way to discourage poor developer behaviour be that through the planning application process or some other means. We have significant concerns with how the approach through the decision-making process would work in real terms. Planning decisions are attached to the land and are made based on material planning considerations. This proposal fundamentally undermines this relationship of the permission with the land and not the individual. The applicant is often not the person/company that ultimately owns and / or builds a permission out. It is often the case in Westminster that once a site has obtained planning permission, the land is then sold on. Similarly, there are potential issues where developers change their company name. Therefore, in practical terms it would be time and resource intensive to track whose performance we're actually judging an application against.

We question how past behaviour will be measured, what the "bar" is for bad previous behaviour and over what time period this status will last? We wonder if this approach would also take into account different sizes of developers. For example, a volume house builder may have more enforcement notices by simple virtue of the number of sites it develops. We seek clarity on how the behaviour test will be applied, such as, whether it will be based on behaviour across all local planning authorities or just the authority where the current application is located. There is a risk that if this is not based across all local authorities, then developers could still conceivably circumvent the test by developing once in each authority and then moving on to the next.

Further, local planning authorities do not have the current resources or skills to investigate the behaviour of all applicants and we would like to see the local planning authority financially remunerated were this new burden placed upon us. There is likely to be a reputational risk where a local authority has either failed to identify a “rogue” applicant due to lack of resource/expertise to do so or where the site has been sold to a “rogue” developer”. Similarly, if an appeal process against a decision refused citing the applicant’s behaviour, will PINS have the expertise to assess these decisions? It is unclear whether this will likely be more akin to a court case rather than the legal planning system. This will attract legal representation and significant additional costs for the local authority and PINS. Although it is attempting to solve a common issues local planning authorities face, it is not the correct way to do so and is an inherently flawed proposal.

Despite our practical concerns attached to this proposed change, should it be progressed, we suggest the following matters that should be in scope when looking at past behaviour:

- Development of schemes that are not in accordance with the approved plans
- Failure to promptly pay CIL and s106 obligations
- Failure to adhere to any planning obligations attached to previous permissions
- Poor build out rates
- Failure to discharge pre-commencement conditions
- Where a breach of planning control has led to formal action (Enforcement Notice, Listed Building Enforcement Notice etc.)

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

Neither option would work for the reasons set out above in response to Q30. The only practical solution is to properly resource planning departments to provide an effective enforcement service that addresses breaches of planning control where they occur on a site by site basis.

32. Do you agree that the three 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?

Yes, we would in principle agree with the proposed three build out policy measures. This will provide greater transparency on past delivery rates by developers and including it as a consideration for new proposals are welcomed. These measures recognise that delivery is out of the control of local authorities and largely private sector led. There is, however, a risk with approach (b) particularly, that the absorption rate will be improved in some locations by the provision of more units of a tenure but where it does not best meet housing need. For example, market housing may be more quickly absorbed in high value areas where shared ownership can be prohibitively expensive.

Whilst these tools seem useful to measure build out, there is concern with the powers to ensure/enforce delivery in accordance with commitments, rather than simply publishing a list. There is a concern that as part of the enforcement process of this list, this will create an extra administrative burden to local authorities to gather this information to inform the published data.

We welcome the introduction of a financial penalty prescribed to those listed however, we wonder how this would work in practice and would there be scope to penalise developers to the benefit of the community. For example, where developers are listed, they would need to provide an extra contribution to affordable housing as part of their new permission.

We also welcome the intention of government to consult with local authorities on increasing planning fees intended to help resource local authorities to promptly process planning permissions and discharge conditions. We recommend that proposals to increase planning fees also put in place a link to inflation or some other appropriate annual index to ensure that resourcing of planning departments reflect ongoing cost increases in future years. Alternatively, we would welcome the approach for local planning authorities to set their own fees based on an evidence base of their costs. Overall, we look forward to working with government for proposals to improve resourcing in planning departments which will lead to improving speed and quality of decision making to enable good growth into communities.

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?

Whilst emphasis on improving design quality is supported, clarity is needed on the definition of 'beauty' which we would expect to see in the glossary of the NPPF. The term 'beauty' is very subjective and open to interpretation based on an individual's own aesthetic ideas and preferences in architectural styles.

The use of the term beautiful is an emotional response, the engendering of which is a highly desirable outcome. However, in the context of the built environment the NPPF should set out what are some of the characteristics of a building or place, which are more likely to provoke a feeling of beauty. The report 'Living with Beauty' produced by the Building Better, Building Beautiful Commission in 2020 sets out some conditions for the delivery of beauty and these could form the basis for clarification. Alternatively, the term 'good design' is better understood and more meaningful in terms of key aspects of a scheme such as, provision of an active frontage, quality of materials used, the extent to which a scheme responds to local context etc. We believe that a definition such as the following, would be as effective and akin to what is set out in our City Plan:

“Good design – is a design that strives to enhance not just our environment, but the health and well-being of those in it. It is design that adds to our heritage and character for generations to come and exemplifies the very best in sustainability.”

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?

Agree in principle, but as in response to Q33, we still feel that the word beauty is highly subjective and therefore needs clarification of its meaning in a built environment context.

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

We agree with this approach. “Good” design can be subjective, and any design requirements imposed via condition(s) would need to meet the relevant tests as well as be precise, clear and enforceable. It should be recognised that by increasing conditions to applications, will require more resource to effectively enforce.

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?

We agree with the principle of supporting upwards extensions which are well designed and complement the street scene. However, the very specific focus on mansards is perplexing, given that while it is a traditional form of roof extension, it would not be suited to many building typologies. The influence of the briefing paper ‘Living tradition’ by Create Streets is obvious but perhaps excessively relied upon. We suggest that the new wording at 122e omitted the word mansard and simply applied to roof extensions.

We note that the first line of para 122e (unchanged) indicates that decisions should support opportunities to use the airspace above existing residential and commercial premises for new homes, but would point out that many roof extensions, particularly mansards, do not provide new homes but often simply enlarge existing dwellings which doesn’t achieve the goal of the policy change. In some instances, however, we would support this approach where the loss of a single one-bed unit is replaced by a family-sized unit to meet the needs of an area. It may be best to consider this change as part of the separate consultation on the proposed National Development Management Policies due to take place later in the year.

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?

We agree that national policy could be strengthened however, we believe the terminology 'intervention' is unhelpful and implies that increasing biodiversity of a site is an inconvenience/intrusion. Instead, it should be viewed as an essential component of a healthy functioning, sustainable place.

The proposed changes could be strengthened further by making clear that such interventions, for example artificial grass or artificial green walls, are not a 'nature intervention' and does not contribute to biodiversity net gain, climate change goals etc. Artificial interventions are commonly made from polyethylene and proven to have adverse effects on the environment via micro plastics, reduces sustainable drainage and has a negative impact on biodiversity.

We believe that national policy could be strengthened by setting out how, when considering the benefits of a nature-based proposal, management and maintenance requirements should also be factored in. For example, small scale interventions should be required to be positioned in a particular direction to avoid constant maintenance and watering, which are ultimately not the most sustainable. Consideration for long term maintenance of nature should be factored to ensure the benefits are sustained for generations rather than just for short-term aesthetic purposes.

There would be benefit in introducing geographical limitations on off-site allocation, where on site is not feasible, for the 10% biodiversity net gain requirement. . In instances that biodiversity net gain cannot be provided on-site, it can be re-directed to parts of the authority area with low biodiversity value. This will ensure that in areas that could benefit more from an increase in biodiversity are considered from the outset.

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?

No comment.

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?

Early design carbon impact assessment is important to standardise the process as there will be less room for interpretation. We set out some suggestions of methods or measurements below:

- Embodied carbon calculations and assessments could be based on a standardised approach based on Buildings Regulations – Part Z as discussed in the House of

Commons² and supported by many major developers and players within the Built Environment.

- Mandatory measurement and reporting of Whole Life Carbon for large buildings (> 1,000m²) and residential developments (> 10 dwellings).
- Local Authorities to set their minimum standards (limits) in relation to LETI benchmarks for Upfront Embodied Carbon (A1-A5) for more mature sectors (i.e. those with sufficient asset level benchmark data), with associated fiscal incentives and penalties.
- All schemes proposing full demolition and re-development to be Net Zero Carbon verified in construction and operation using a third-party verifier in line with the UKGBC Framework.
- Any tool implemented should not be so broad that it does not consider embodied carbon involved in standard demolition and rebuild forms of development.
- Proposals will inevitably be subject to a high degree of 'projections' so there is a need to avoid overcomplicating with tools that inform decisions that may end up being inaccurate due to the number of unknowns (e.g. travel patterns).

We also wanted to bring attention to the recently released independent review by Rt Hon Chris Skidmore MP, "Mission Zero: Independent Review of Net Zero"³. This was an independent review of the government's approach to delivering its net zero target, to ensure that it is pro-business and pro-growth. Whilst this report was published after the start date of this consultation, we wish to seek that the recommendations set out have been addressed as part of the proposed changes to the NPPF and planning system. In particular, we wish to draw your attention to recommendation 98 made by the review, as follows:

"Central government should reform the local planning system and the NPPF now. Have a clear vision on net zero with the intention to introduce a net zero test, give clarity on when local areas can exceed national standards, give guidance on LAEP, encourage greater use of spatial planning and the creation of Net Zero Neighbourhood Plans, and set out a framework for community benefits."

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?

Planning policy could include more detail on the use of Local Nature Recovery Strategies alongside greening to mitigate effects from climate change, specifically surface water flooding through protection and enhancement of areas that provide drainage. Further, more details around the use of building materials such as the use of timber could be useful.

² [Carbon Emissions \(Buildings\) Bill - Parliamentary Bills - UK Parliament](#)

³ [Mission Zero: Independent Review of Net Zero \(January 2023\)](#)

We believe that a retrofit-first approach should be supported by national policy to contribute to reducing the effects of climate change, possibly through a sequential approach. In addition, we believe national policy could promote and make retrofitting easier for development proposals affecting Listed Buildings and buildings within conservation areas – perhaps through a fast track, permitted development or a simpler application process to encourage the take up of this type of development. Likewise, government should develop policy tools to encourage measures to retrofit flood resilience technology into basement flats and incorporate such measures as standard in development of new basement homes.

Chapter 8 – Onshore wind and energy efficiency

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

The changes proposed to paragraph 155 of the existing National Planning Policy Framework are unclear and do not correspond with the specific mention to wind farms, as per the consultation paper. The proposed changes to Paragraph 155 encompasses all forms of renewable and low carbon energy and does not make reference to wind farms. Clarity on the intention of the proposed changes to correspond with the consultation paper are needed in order for us to make an informed response to this question.

On a further note, we would like to see the proposed changes to existing paragraph 155 strengthened to acknowledge that where the use and supply of renewable and low carbon energy is increased, that the communities where these projects are deployed are directly benefited from them.

Additionally, the overall wording of existing paragraphs 155, 156 and 159 could be stronger to acknowledge that energy efficiency can be achieved through various ‘passive’ measures. These climate change mitigation interventions include buildings typology, form, and multifunctionality to allow for adjusting the size of buildings to the evolving needs of their users and repurposing unused existing buildings to avoid using greenhouse gas-intensive materials and additional land. Mitigation interventions can also be considered in the construction phase through using low-emission construction materials, highly efficient building envelope and the integration of renewable energy solutions at the use phase (i.e. Highly efficient appliances/equipment, the optimisation of the use of buildings and their supply) and at the disposal phase (i.e. Upcycling and re-using construction materials).

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

Please see response to Q41.

43. Do you agree with the changes proposed to footnote 54 of the existing National Planning Policy Framework?

No comment.

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?

We welcome the proposed changes to paragraph 161 in responding to the climate emergency whilst also considering built heritage. We would, however, recommend the policy go further to support a retrofit-first approach and to take into account overall carbon emissions rather than only focusing on energy efficiency.

We set out further suggestions to strengthen this policy below:

- Retain proposals for use of MEES in the non-domestic sector in the short to medium term and retain the long-term trajectory that envisages that all non-domestic rented buildings will meet EPC B rating by 2030.
- Review the need for MEES at a policy level as energy performance rating schemes become established. Address the recommendations set out by the UK's statutory climate advisory body, the Climate Change Committee (CCC), for the best route forward for EPCs and enable more targeted policymaking⁴.
- Introduce and clearly signpost a cut-off date of 2030 for the sales of gas and oil boilers.
- Remove VAT on energy efficiency retrofit works (i.e. 0%VAT) where energy performance improvement targets are met (to incentivise energy efficiency improvements whilst retaining VAT revenue from general works).
- Allow for council tax reform considering variable rates / rebates dependant on energy performance.

Chapter 9 – Preparing for the new system of plan making

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, we agree with this approach.

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

We believe that a 30-month time limit to prepare a whole new local plan is overly ambitious given existing resourcing issues in local authorities. Further to this, there are several questions as to how the arrangements will work in practice which require clarification:

⁴ [Letter to Lee Rowley MP from the Climate Change Committee – Reform of domestic EPC rating metrics to support delivery of Net Zero](#)

- it is not set out what the penalties are for missing this deadline or what constitutes “starting a local plan” (i.e. Will it be from Regulation 18 consultation stage).
- what provisions are in place for those authorities that are near to adoption but have missed the 30 month deadline due to powers outside of their control.
- Will there be an option to seek an extension or does local decision-making default to the presumption in favour of sustainable development, regardless.

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, we agree with this approach.

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

We strongly object with transitional arrangements for supplementary planning documents (SPDs) that would mean existing SPDs (regardless of how relevant their content is) become redundant. To enable boroughs to rightly prioritise up to date local plans, there should be scope to protect existing SPDs where a case can be made that they remain in conformity with higher level policy that is current. Otherwise, this may result in a guidance vacuum that reduces certainty to the development industry on how higher level policies will be interpreted. It will also reduce the effective implementation of a number of policies which would otherwise have very positive outcomes for the community. For example, aiding negotiation on financial contributions and ensuring developments deliver the best sustainable outcomes based on highly technical specifications which are not appropriate within a local plan.

We would also strongly object to the abolition of SPDs in general. SPDs provide a useful opportunity to provide helpful technical guidance to expand on strategic policies in development plans. The process of SPDs allow local authorities to provide much needed guidance in a timely manner without resource implications associated with development plan documents (i.e. cost of examination etc.). It is unclear from the proposed changes, whether Conservation Area Audits/Appraisals are also due to be abolished as they are too adopted as SPDs. Clarity is sought on this as this will cause wider implications for protection and management of heritage assets if they cease to exist.

Full proposals for the new supplementary plans are currently unclear. The key question surrounding the new proposals is whether supplementary plans would require examination. If they do require examination, then this will be costly and resource-intensive for local authorities. It may also discourage local authorities from wanting to develop and progress supplementary plans – leading to a policy vacuum and less certainty as explained above.

If the intention is to require supplementary plans to progress through examination, then we would suggest that this should only be in the format of written representations, to make the process simple, quick, and less of a burden to local authorities.

Chapter 10 – National Development Management Policies

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

We welcome the case for NDMP, particularly in bringing consistency, reducing length of local plans and streamlining evidence base for local plans. We would, however, wish to seek clarification as to how the NDMP will fit within the structure of the national framework for planning and the role of regional plans such as, the London Plan. It is not clear how “nationally important issues commonly encountered in making decisions on planning applications across the country” will be interpreted in particular geographical locations. For example, the role of the NDMP should not be used to set the national direction on matters such as affordable housing mix, or undermine the good work that has been undertaken in London on prioritising sustainable travel through lesser parking standards etc.

There is also concern that the proposal for a set of NDMP will cause a more complex and confusing system than existing. Perhaps a way forward is to allow local planning authorities to repeat NDMP in their Local Plans so that all policies are in one document. These could then simply be omitted from the EiP and other stages of the plan-making process. This would, therefore, continue to be a simplification of the process of adoption and cost of plan-making, but the “customer journey” would not be any more complex. Additionally, we would also recommend local authorities having the power to develop “supplementary plans” to expand upon NDMP and make locally specific to their area.

We acknowledge and welcome the opportunity to consult on the details of the draft NDMPs themselves before implementation, following the passage of the Bill. We also recommend consulting statutory bodies such as, Historic England and the Environment Agency on matters concerning the NDMP. This will provide the opportunity for statutory bodies to streamline matters which could be resolved in national policy rather than at a local level. Thus, helping to reduce impact on their time and resources.

Details of a review period for NDMP would also be welcomed so that this approach aligns with review periods for local plans. This will allow the opportunity to critically assess how the policies are working and provide scope to amend certain NDMP if issues/challenges arise.

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

The scope of NDMP must be strategic and contribute to the overall objectives of the National Planning Policy Framework, to contribute to achieving sustainable

development. The NDMP should not be particularly focused on housing growth but seek to appeal to development that encompass the economic, social and environmental objectives. To assist in this process, the NDMP should be subject to SA, HRA and EQIA testing and not only progress through consultation.

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

We agree in principle, subject to further details being presented to inform a more detailed response.

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?

We agree in principle with the suggested scope and principles for guiding NDMP, however, we would suggest that a policy area scope for the NDMP, be limited to:

- Air quality
- Flood risk and flood resilient design, particularly for residential proposals at basement level.
- Protection of designated open spaces which are largely duplicated nationwide.
- Energy and sustainability (if suitably challenging minimum targets are set). We suggest this includes a policy setting out whole life carbon principles to be implemented nationally.
- Heritage/Listed Buildings
- Protection of commercial floorspace to balance the competing needs of residential and commercial, where Permitted Development Rights have exacerbated this issue.
- A retrofit-first policy to support refurbishment over demolition and rebuild.
- Infrastructure – e.g. Electric Vehicle infrastructure
- Housing quality/space standards

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 twelve 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?

London accounts for more than a fifth of the country's economic output (paragraph.5.1, the London Plan). The wealth this generates is essential to keeping the whole country functioning. Therefore, in supporting the Levelling Up agenda, it is key that this does not

result in the “levelling down” of central London. The same also applies to residents in Westminster, there are areas in Westminster with very deprived wards despite their apparent overall prosperity. They should not be impacted upon by supporting development and the “levelling up” in other parts of the country (and London).

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 term “gentle densification” implies that densifying is a negative and this implication could cause challenges to promote growth within communities. “Gentle densification” of urban cores beyond London does not support the Levelling Up agenda. Significant densification that is sufficiently supported by infrastructure investment is needed and national policy should be proactive in encouraging this.

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?

The existing NPPF already sets out that planning policies and decisions should aim to achieve healthy, inclusive and safe places. An improved narrative around ensuring public spaces are inclusive to all, particularly those with protected characteristics, would be welcome.

Public Realm is a complex policy area that benefits from detailed guidance. While improved narrative within national guidance are helpful, they are not sufficient to guide development in the public realm. This is an area where supplementary planning documents add real value (reference back to our answer to question 48)

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?

No comment.

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.