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Institute of
Housing

What you need to know about the consultation on reforms to national planning policy

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This consultation applies to England only and runs from 22 December 2022 to 2 March 2023. Further details on the consultation and options for responding can be found on the [DLUHC's website](#).

This consultation seeks views on the Department of Levelling Up, Housing and Communities' (DLUHC's) proposed approach to updating the National Planning Policy Framework (NPPF, also often referred to by DLUHC as 'the Framework'). It also presents the potential scope of future NPPF consultation alongside consultation on new National Development Management Policies. In addition, it discusses other policies and legislation that would be enabled by Royal Assent of the [Levelling Up and Regeneration Bill \(LURB\)](#) and includes consultation on policy and legislation related to other primary legislation and topics.

This consultation is published alongside an [indicative markup of the NPPF](#). Whilst consultation on the NPPF (in the form of a previously promised 'prospectus') had been expected for some time, this 'mark up' and consultation also comes following backbencher pressure at the end of 2022 on government plans to amend housing policy and other matters as the [LURB](#) progresses through the House of Lords.

This briefing provides a summary of the consultation document's most significant aspects for CIH members.

Objectives

The latest proposals in this consultation document are to be read alongside the [policy paper which accompanied the introduction of the Levelling Up and Regeneration Bill](#). Therefore, the objectives echo those of the [Levelling Up White Paper \(February 2022\)](#) and are:

- Building beautiful and refusing ugliness
- Securing the infrastructure needed to support development
- More democratic engagement with communities on local plans
- Better environmental outcomes
- Empowering communities to shape their neighbourhoods
- Delivering more homes in the right places, supported by sustainable and integrated infrastructure for our communities and our economy.

The consultation document sets out specific changes that the government propose to immediately make to the NPPF (subject to and following consultation), these are:

- Make clear how housing figures should be derived and applied so that communities can respond to local circumstances
- Address issues in the operation of the housing delivery and land supply tests
- Tackle problems of slow build out
- Encourage local planning authorities to support the role of community-led groups in delivering affordable housing on exception sites
- Set clearer expectations around planning for older peoples' housing
- Promote more beautiful homes, including through gentle density
- Make sure that food security considerations are factored into planning decisions that affect farm land
- Enable new methods for demonstrating local support for onshore wind development.

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Reforming the five year housing land supply

It is proposed that the requirement for local authorities to demonstrate a deliverable five year housing land supply will be removed (providing the local authority's housing requirement in its strategic policies is less than five years old). This change is proposed to take effect when the revised NPPF is published (expected spring 2023).

Alongside this, further changes are proposed to the operation of five year housing land supply requirements, including:

- Removing these five year housing land supply buffers from national planning policy in the future
- Enabling local planning authorities to include historic oversupply in five year housing land supply calculations and to demonstrate meeting communities overall housing requirements.

The standard method and meeting housing need

It is proposed that from spring 2023, although local authorities will still be expected to continue to use local housing need assessed through the standard method, it will be clearer in the NPPF that the outcome of the standard method is an advisory starting-point to inform plan-making – a guide that is not mandatory. Also, more explicit indications in planning guidance will be given of the types of local characteristics which may justify the use of an alternative method, such as location with a high percentage of elderly residents, or university towns with an above-average proportion of students.

Changes are also proposed relating to matters that may need to be considered when assessing whether a plan can meet all the housing need which has been identified locally. These are:

- If housing need can be met only by building at densities which would be significantly out-of-character with the existing area (taking into account the principles in local design guides or codes); this may be an adverse impact which could outweigh the benefits of meeting need in full
- 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 (although authorities would still have the ability to review and alter green belt boundaries if they wish, if they can demonstrate that exceptional circumstances exist)
- Authorities may also take past 'over-delivery' into account, such 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.

Test of soundness

It is also proposed that from spring 2023 there will be a change to the tests of soundness for plan-making. Specifically, removal of the 'justified' test and amendments to the 'positively prepared' test to insert that local planning authorities only need to meet objectively assessed needs 'so far as possible' and removing the requirement to satisfy unmet need from neighbouring authorities.

The urban uplift

The method for calculating local housing need was amended in 2020 to apply an uplift of 35 per cent for the 20 largest towns and cities, in recognition of the potential of brownfield land.

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The duty to cooperate

The LURB will remove the duty to co-operate. To secure appropriate engagement between authorities where strategic planning considerations cut across boundaries, an “alignment policy” is proposed as part of a future revised NPPF. Further consultation on what should constitute the alignment policy will be undertaken at a later time.

The Housing Delivery Test

The Housing Delivery Test (HDT) was introduced in 2018 to measure homes built in local planning authorities, however, proposals are suggested to amend the HDT so local planning authorities are not penalised unfairly when slow housing delivery results from developer behaviour. It is therefore proposed that added to the current HDT will be an additional permissions-based test. This will ‘switch off’ the application of ‘the presumption’ as a consequence of under-delivery, where a local planning authority can demonstrate that there are ‘sufficient’ deliverable permissions to meet the housing requirement set out in an up to date local plan.

More homes for social rent

Positively, in line with the Levelling Up White Paper’s commitment to “increase the amount of social housing available over time to provide the most affordable housing to those who need it” there is a focus in the consultation on placing more value on social rented homes. The NPPF currently includes specific stipulations about securing homes for affordable home ownership, outlining an expectation that 10 per cent of homes in major developments should be available for affordable home ownership. The consultation documents states “our national planning policy must continue to support this but equally that it should place much greater value on the most affordable housing tenure: Social Rent”.

The consultation therefore asks for views on how changes could be made to the NPPF to make clear that local planning authorities should give greater importance in planning for social rent homes, when addressing their overall housing requirements in their development plan and making planning decisions.

More older people's housing

The NPPF already makes clear that the size, type, and tenure of housing needed for different groups in the community, including older people, should be assessed and reflected in planning policies. However, it is proposed that an additional specific expectation will be added to the NPPF that within ensuring that the needs of older people are met, particular regard is given to retirement housing, housing-with-care and care homes, which are important typologies of housing that can help support our ageing population.

More sites for small builders

The existing NPPF sets out that local planning authorities should identify land to accommodate at least 10 per cent of their housing requirement on sites no larger than one hectare, unless it can be shown through the preparation of relevant plan policies that there are strong reasons why this target cannot be achieved. This consultation is inviting comments on whether this part of the NPPF (paragraph 69) could be strengthened to encourage greater use of small sites, particularly in urban areas, to speed up the delivery of housing (including affordable housing), give greater confidence and certainty to SME builders and diversify the house building market. This is an opportunity for initial views, ahead of consultation as part of a fuller review expected later in 2023.

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More community led development

It is proposed that statements within chapter five of the NPPF will be strengthened to place more emphasis on the role that community-led development can have in supporting the provision of more locally-led affordable homes - including on exception sites. It is proposed that community-led developments will also be defined in the NPPF glossary. The consultation welcomes views on whether the definition of “affordable housing for rent” should be amended to make it easier for organisations that are not registered providers - in particular, community-led developers - to develop new affordable homes. In addition, the consultation document explains that government would like to make it easier for community groups to bring forward exception sites for affordable housing in rural areas. Therefore, the consultation welcomes information on what the barriers are for community groups making use of the existing rural exception sites policy, and what changes could encourage community involvement in affordable housing delivery, particularly in rural areas.

Developer accountability and ensuring build out

Separately from the immediate proposed changes to the NPPF, the consultation document considers potential ways to improve developer accountability and, “in particular, take account of past irresponsible behaviour in decision-making”. Two potential approaches are presented:

- Making such behaviour a material consideration when local planning authorities determine planning applications so that any previous irresponsible behaviour can be taken into account alongside other planning considerations

- Allowing local planning authorities to decline to determine applications submitted by applicants who have a demonstrated track record of past irresponsible behaviour prior to the application being considered on its planning merits.

These options will require primary legislation, as well as further engagement with local planning authorities, the development sector, and other stakeholders to ensure that the proposals are fair, proportionate, and workable.

Potential measures are also presented to incentivise the prompt build-out of permitted housing sites and to support local authorities to act against those who fail to meet these commitments. Through proposals in the Bill, housebuilders will be required to formally notify local authorities, via a development commencement notice, when they begin development. Existing powers will also be amended for local authorities to serve a completion notice, which has the effect that if the development is not completed within the period specified in the notice, the planning permission for unfinished development lapses. In addition, housing developers will be required to report annually to local authorities on their actual delivery of housing against a proposed trajectory that they submit on commencing a scheme for which they have permission. Local planning authorities will have discretion to decide whether to accept future planning applications made by developers who fail to build out earlier permissions granted on the same land. To further strengthen this package, following passage of the bill, it is intended that three further measures will be introduced, via changes to national planning policy, these are:

- Data will be published on developers of sites over a certain size in cases where they fail to build out according to their commitments

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- 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)
- The NPPF will highlight that delivery can be a material consideration in planning applications.

Initial views are sought in this consultation ahead of consultation as part of a fuller review of later in the year and a separate consultation on proposals to introduce financial penalties against developers who are building out too slowly.

Asking for beauty and refusing ugliness

References to beauty are frequent through the document, including adding beauty to a proposed change to chapter 12 to comprise the word 'beautiful' when referring to 'well-designed places' to further encourage well-planned and attractive development.

Protecting the environment and tackling climate change

Amendments are proposed to the NPPF to clarify that significant weight should be given to the importance of energy efficiency through adaptation of buildings, whilst ensuring that local amenity and heritage continues to be protected.



Timelines for plan preparation

Under the reformed system, expected to go live in late 2024, there will be a requirement for local 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. Authorities will no longer prepare supplementary planning documents, instead, they will be able to prepare supplementary plans, which will be afforded the same weight as a local plan.

Expected timeline

- 11 May 2022: Levelling Up and Regeneration Bill is introduced
- Spring 2023: Subject to Parliamentary approval, Levelling Up and Regeneration Bill receives Royal Assent
- November 2024: Expected earliest date when LPAs with a plan which is more than 5 years old must begin new plan-making process
- 30 June 2025: Cut-off date for old-style plans to be submitted for examination
- October 2026: Earliest date that the first new-style examinations commence
- 31 December 2026: Latest date for any old-style local and minerals and waste plans to be adopted (or in the case of Strategic Development Strategies, published)
- April 2027: First new-style plans are adopted
- 31 December 2031: Latest date when LPAs must begin the new style plan-making process (if their previous plan was adopted on 31 December 2026).

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National Development Management Policies (NDMPs)

It is noted that NDMPs will have a prominent role in making decisions on planning applications. Further consultation will follow on NDMPs themselves following passage of the Bill. This section therefore is not seeking views on the specific policies, but rather the principles for producing them.

It is noted that potentially NDMPs could address carbon reduction in new developments. A national policy could set a baseline while enabling authorities to set further measures in their own plans. Housing in town centres and built-up areas is also suggested an area where NDMPs could standardise expectations.

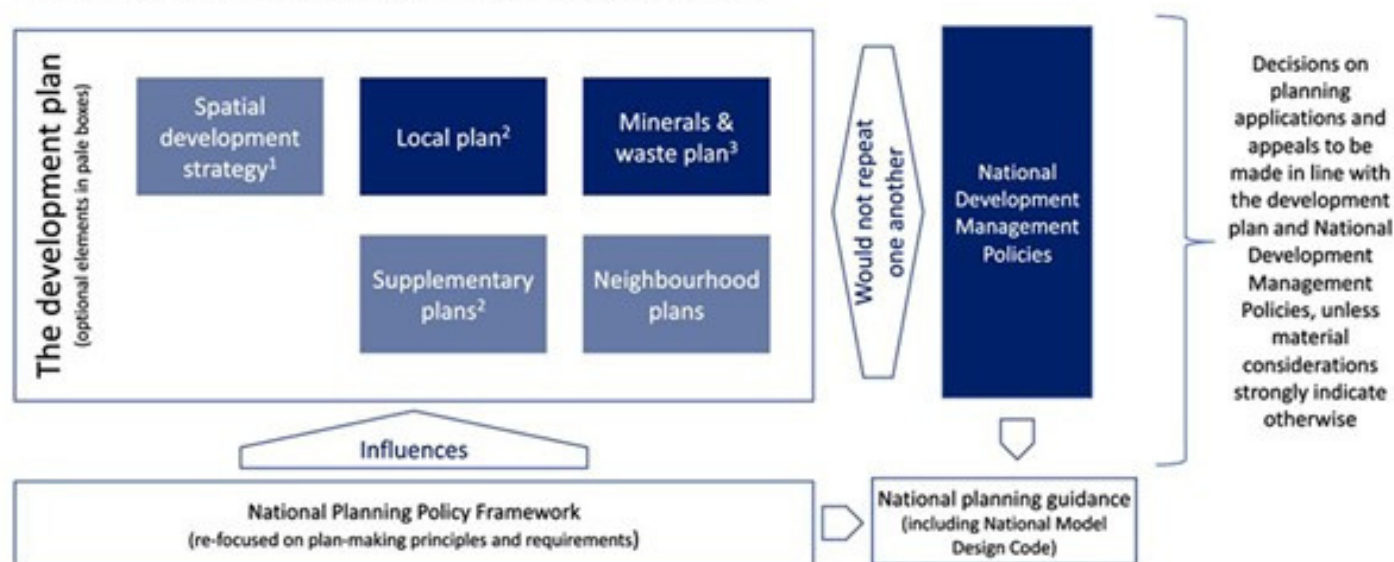
Design codes

Design codes, once forming part of the development plan, will have the same weight as NDMPs, unless in conflict with them, and the proposed consultation on NDMPs is to include discussion on the new weight to be given to design code.

Boosting the status of neighbourhood plans

Additional protections are proposed for neighbourhood plans in circumstances where a local planning authority's policy for the area covered by the neighbourhood plan are out-of-date (currently where a local plan is currently significantly out of date there will be a presumption in favour of development except in

The role of plans and national policy in the reformed system
(elements with full statutory weight in decisions on applications shown in blue)



- 1 Mandatory where SDS powers have been conferred on Mayoral/combined authorities; voluntary elsewhere.
- 2 A district-wide design code must form part of the local plan, or else be contained in a supplementary plan. The local plan will also be informed by an Infrastructure Delivery Strategy, to be produced by the local planning authority, and by any Neighbourhood Priorities Statements produced by neighbourhood planning groups in the area.
- 3 Minerals and waste can be covered in separate documents, and can be combined with the local plan where an authority has powers over both.

Source: [Open consultation Levelling-up and Regeneration Bill: reforms to national planning policy chapter 10](#)

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very specific circumstances with regards to local plans). Proposals are to extend protection to neighbourhood plans that are up to five years old (instead of the current two years) and removing tests which currently mean local planning authorities need to demonstrate a minimum housing land supply and have delivered a minimum amount in the HDT for neighbourhood plans to benefit from the protection afforded by the NPPF.

CIH's initial view

CIH are still considering the consultation proposals in depth. This consultation has been long awaited and so we are pleased to have more details on which to provide comment. Given the focus of the consultation on both the draft text for the NPPF and a proposed direction of travel for national policy flowing from the LURB's anticipated Royal Assent, this exercise presents opportunities to positively influence future consultations.

There are elements we particularly welcome being referenced for future focus, including the emphasis on social rent and housing for older people. However, a number of the proposals (particularly in relation to the immediate amendments to the NPPF) are very concerning in terms of their potential implications for undermining housing delivery, with a move away from evidencing housing need. The consultation was an opportunity to be far more ambitious in tackling the climate and housing emergencies that we face.

CIH will be preparing a submission to the consultation and seeking member input to this. As part of this we will work with the [Better Planning Coalition](#), of whom we are a member. Please get in touch with the policy and practice team at CIH if you would like to discuss this consultation further: policyandpractice@cih.org.