

Response ID

Submitted to Levelling-up and Regeneration Bill: Reforms to National Planning Policy
Submitted on 2023-02-28 22:00:43

Introduction

A Personal dataThe following is to explain your rights and give you the information you are be entitled to under the Data Protection Act 2018.Note that this section only refers to your personal data (your name address and anything that could be used to identify you personally) not the content of your response to the consultation.1. The identity of the data controller and contact details of our Data Protection Officer The Department for Levelling Up, Housing and Communities (DLUHC) is the data controller. The Data Protection Officer can be contacted at dataprotection@communities.gov.uk 2. Why we are collecting your personal data Your personal data is being collected as an essential part of the consultation process, so that we can contact you regarding your response and for statistical purposes. We may also use it to contact you about related matters.3. Our legal basis for processing your personal dataThe Data Protection Act 2018 states that, as a government department, DLUHC may process personal data as necessary for the effective performance of a task carried out in the public interest. i.e. a consultation.4. With whom we will be sharing your personal dataDLUHC may share your personal data with external organisations, for purposes relating to this consultation, including analysis of responses. Any data shared with organisations outside of DLUHC will be anonymised where possible.5. For how long we will keep your personal data, or criteria used to determine the retention period.Your personal data will be held for two years from the closure of the consultation.6. Your rights, e.g. access, rectification, erasure The data we are collecting is your personal data, and you have considerable say over what happens to it. You have the right:a. to see what data we have about youb. to ask us to stop using your data, but keep it on recordc. to ask to have all or some of your data deleted or correctedd. to lodge a complaint with the independent Information Commissioner (ICO) if you think we are not handling your data fairly or in accordance with the law. You can contact the ICO at <https://ico.org.uk/>, or telephone 0303 123 1113.7. Your personal data will not be sent overseas.8. Your personal data will not be used for any automated decision making. 9. We use a third-party system, Citizen Space, to collect consultation responses. In the first instance your personal data will be stored on their secure UK-based server. Your personal data will remain on the Citizen Space server and/or be transferred to our secure government IT system for two years of retention before it is deleted. Please confirm that you have read and agree to the privacy notice

Please tick to confirm:

Yes

B What is your name?

Name:

David Ford

C What is your email address?

Email:

dford@tandridge.gov.uk

D What is your organisation?

Organisation:

Tandridge District Council

E What type of organisation are you representing?

Local authority

If you answered "other" please provide further details:

Chapter 3

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

Yes

Please set out the reasons for your answer:

Yes, we are supportive of this proposed change. This will help to reduce the burden on local planning authorities as well as reinforce the primacy of the Local Plan / Neighbourhood Plan within a development plan system.

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

Please set out the reasons for your answer:

Yes, we are supportive of this proposed change. The previous requirement placed an unreasonable demand on LPAs to identify land, particularly when faced with a significantly constrained borough where it is already challenging to meet identified need, as is the case in Tandridge.

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

Yes

Please set out the reasons for your answer:

Yes, we are supportive of this proposed change. This is a fairer approach and appropriately recognises the fact that housing delivery is unlikely to follow a steady annual rate over the plan period, with knock on consequences for maintaining a steady stream of supply.

Or is there an alternative approach that is preferable?:

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

Answer:

The key point is that any guidance should be unequivocally clear as to how over and under supply should be taken into account to minimise the risk of legal challenge at appeals. The existing guidance on under supply is straight forward and easy to understand and future guidance on over supply should adopt a similar style. It is important that any guidance covers all scenarios, including for instance where a local authority is preparing a new plan and the previous plan is time expired

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?

Answer:

Yes, we are supportive of this proposed change, which will offer additional protection from speculative development. The current two-year time frame does not recognise the effort the community has put into defining local aspirations and a longer planning time horizon is considered more appropriate and aligned with the Local Plan periods.

We question whether an unintended consequence of these proposals will be to make those areas without a Neighbourhood Plan more vulnerable to speculative development?

Chapter 4

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

Please set out the reasons for your answer:

Yes, we are supportive of changing the opening chapters of the Framework. However, we suggest that the opening chapters are further revised to make national planning policy clearer. As currently drafted, there is still room for misinterpretation and there is apparent conflict with later chapters of the Framework. For example, paragraph 1 references providing sufficient housing, paragraph 15 references meeting housing needs and paragraph 35a references seeing to meet the area's objectively assessed needs so far as possible.

There is a need for significantly more clarity in national policy regarding Green Belt and housing delivery. The mixed messages being received through ministers, officers and consultation documents are difficult to interpret and do not assist with Local Plan production and ensuring that members and the public truly understand the system and proposed changes. It only serves to add a layer of complexity and delay to the system.

It is also important that the opening chapters do not become too narrow in focus, zeroing in on housing development. Topics such as sustainable development, addressing climate change and delivering net zero should be given equal, if not higher, weight given the importance of these issues.

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

Answer:

The proposals will slow down plan making in the short term given the degree of uncertainty associated with the proposals, particularly in relation to housing need and constraints, proposed changes to the standard method and replace of Duty to Cooperate with an alignment test.

Longer term the proposals are likely to reduce housing supply within our own district, which is considered appropriate given the extensive constraints / valued land / landscapes within Tandridge. It may also speed up plan making as accepted principles around Green Belt and housing need will have already been established.

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?

Yes

Please set out the reasons for your answer:

Yes, we are supportive of change which provides greater certainty regarding the interpretation of policy and reduces the likelihood of Local Plan Examinations being extended while such issues are debated.

Are there other issues we should consider alongside those set out above?:

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

Please set out the reasons for your answer:

Yes, we strongly support this proposed change regarding Green Belt. It is considered critical that the planning system reflects the significant constraints to growth experienced in districts with high proportions of Green Belt, as in the case of Tandridge. The proposed changes will reinforce this position and therefore help to achieve more efficient plan production.

However, we request that either through the Framework or updated Planning Policy Guidance that further clarity is provided as to how these constraints should be applied within the plan making process, including what (if any) evidence will be required to demonstrate that such conditions apply in a district and what this means in terms of developing spatial strategy. For example, in our district with 94% Green Belt and minimal brownfield sites, does this mean that it will be acceptable to propose very limited development in the future (if this accords with the Council's vision for the area)?

Yes, we support the proposed change around building at densities significantly out of character with the existing area. However, we request that further guidance is provided regarding the term 'significantly out of character' to avoid this becoming a future area of protracted debate in plan making / decision making.

We agree with the proposal that past over-supply can be taken into account. As with the constraints, it will be important that clear guidance is given as to how this will work in practice, including precise definition of 'over supply' and whether this refers to overall quantum, or drills down into specific housing types/ tenures.

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?

Please set out the reasons for your answer:

This could be demonstrated a variety of evidence base documents, including localised density studies, area character studies, land availability assessments and Conservation Area appraisals / management plans. Guidance should be given to identify appropriate types of evidence and their required scope to ensure an efficient and proportionate process is followed in examination.

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?

No

Please set out the reasons for your answer:

We welcome the suggestion for a more proportionate approach to examination; however, we do not support the proposed change to remove 'justified' from the tests of soundness. It is difficult to envisage how the LPA could develop a Local Plan without exploring the justification for the option selected, particularly given assessing reasonable alternatives is legal requirement for environmental assessment. The evidence produced to define the spatial strategy is not only essential to help develop the plan but also used by Development Management officers when determining planning applications. The evidence prepared for Local Plans is invaluable for understanding policy and allowing officers to determine whether an application is appropriate, likely impacts and ensure decisions are robust and can withstand challenge. Removing the requirement for justification will open up the planning system to far more subjectivity and a danger that unsubstantiated proposals will come forward.

A more helpful approach would be to provide further guidance as to the exact evidence required to support the examination process. It would be helpful if all guidance given to / produced by PINS is shared with LPAs so that we are all working on a level playing field and towards a single goal. This will help to increase consistency and efficiency within the system.

12 Do you agree with our proposal to not apply revised tests of soundness to plans at more advanced stages of preparation?

Yes

Please set out the reasons for your answer:

Yes, we are supportive of this proposal. It would be extremely disruptive to amend the Examination protocols at such a late stage.

If no, which if any, plans should the revised tests apply to?:

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

Indifferent

Please set out the reasons for your answer:

No comment

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?

Please set out the reasons for your answer:

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?

Please set out the reasons for your answer:

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?

Yes

Please set out the reasons for your answer:

Yes, we are supportive of this proposal. As per our response to Q9, it is critical that housing land supply requirements fully take into account the impact of constraints, such as Green Belt, have on identifying potential land for growth.

If no, what approach should be taken, if any?:

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?

Yes

Please set out the reasons for your answer:

Yes, we are supportive of this proposal which will ensure a level playing field for all LPAs. However, as set out in our response to Q9 further clarity / guidance is required to explain how this will work in practice.

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

Please set out the reasons for your answer:

Yes, we are supportive of this proposal. Guidance should be provided to ensure there is a clear definition of 'permissioned homes.'

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?

No

Please set out the reasons for your answer:

No, we do not agree with the proposed buffer. In a district where historically high build out rates have been achieved, this places an unnecessary burden on the authority. Further, given that current statistical buffers relating to housing tests are being removed as part of this consultation due to unintended consequences as a result of their operation, it seems counter intuitive to add in a new buffer for counting permissioned deliverable homes.

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

Please set out the reasons for your answer:

Given the lack of clarity regarding the precise definition of permission homes, it is difficult to comment. However, we anticipate that this data is likely already collected as part of our own housing monitoring systems and could be used for this purpose.

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

Please set out the reasons for your answer:

We support the proposal to suspend Housing Delivery Tests consequences. However, we believe no consequences should be applied until the new planning system is introduced and consideration can be given to the Government's intention to further improve the test.

Given the degree of uncertainty regarding the new system and the significant changes proposed, for example, around the application of constraints to reduce housing need requirements, it is considered extremely reasonable to suspend the system.

Chapter 5

22 Do you agree that the government should revise national planning policy to attach more weight to Social Rent in planning policies and decisions?

Yes

Please set out the reasons for your answer:

Yes, we are supportive of this proposal to amend policy.

If yes, do you have any specific suggestions on the best mechanisms for doing this?:

However, in terms of mechanisms, we would argue that the most effective way to delivery social rented accommodation would be to support council housing building programmes. This could be achieved through additional funding to provide social rented homes via Homes England.

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

Please set out the reasons for your answer:

Yes, we are supportive of the need to provide further clarity with regards to specialist older people's housing. It would be helpful, if policy / guidance could provide further clarity regarding allocation of sites for such uses and definitions for different types of older people's housing, as well as potentially targets for the different types.

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)?

Answer:

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?

Answer:

No comment

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?

No

Please set out the reasons for your answer:

We are supportive of the principle of increasing delivery of affordable housing; however, we have concerns regarding the regulation of such housing in terms of affordability, quality and maintenance without the requirement for organisations to be Registered Providers.

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?

Answer:

No comment

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

Answer:

No comment

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

Answer:

No comment

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

No

Please set out the reasons for your answer:

This has the potential to create a significant 'can of worms' for authorities – it will be difficult to fairly judge which developers should be classed as having demonstrably irresponsible behaviour and how accountability will be defined. It would place yet another burden on authorities in terms of administrating any system to identify any such developers and dealing with the inevitable legal challenges to place a developer on such a list.

Councils already have existing powers to reject applications in certain circumstances, for example if an enforcement notice has been served on a site where a subsequent application is received; or right to refuse to determine an application for a site where planning permission has been declined in the previous 12 months. It is therefore suggested that this system is expanded to cover more pre-defined scenarios, which address specific forms of inappropriate behaviour. Examples include: repeated applications for the same site; applicant has been subject of repeated enforcement action; piecemeal development of sites to avoid delivering affordable housing; and removal of trees covered by TPOs.

We emphasise the need for Government to define irresponsible behaviour within legislation in order to protect local authorities from potential litigation.

If yes, what past behaviour should be in scope?:

31 Of the two options above, what would be the most effective mechanism?

Option 2

Please set out the reasons for your answer:

As stated above, we do not support this change. However, if Government goes ahead, our preference would be for the second mechanism. If behaviour is considered as a material consideration, there is too much potential for subjective decisions.

Are there any alternative mechanisms?:

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?

Indifferent

Please set out the reasons for your answer:

We do not support the first policy measure – this is simply another data gathering exercise and will add little real benefit to the system.

We support the second and third policy measures as useful mechanisms, which will provide more robust data for LPAs to make judgements on planning applications and to assess subsequent build out performance.

The changes could be articulated through changes to the Framework and updated guidance. The latter could include provision of standard wording for planning conditions or advice on planning application requirements.

Do you have any comments on the design of these policy measures?:

Chapter 6

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?

No

Please set out the reasons for your answer:

We are supportive of the principle to raise the bar in terms of design to ensure that development is well-designed and of high quality. However, we are concerned about the subjectivity of the phrase 'beauty'. Debating the interpretation of 'beauty' has the potential to slow down plan making / decision making processes.

Delivering well-designed places would be better achieved through the National Model Design Codes, proposed local design codes and further guidance in the NPPG regarding the general principles of good design.

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?

No

Please set out the reasons for your answer:

As per our response to Q33, we have concerns regarding the ambiguity of this term and therefore do not support the proposed changes.

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

No

Please set out the reasons for your answer:

We support the principle of visual clarity with regards to design requirements. However, we consider that the current system already allows for conditions to be attached to planning applications and the planning enforcement process supports this approach. Therefore, further change is not required.

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?

No

Please set out the reasons for your answer:

We do not support this policy change. Existing policy already allows for such changes and this instead could be a matter for updated Planning Policy Guidance. It is not considered a strategic matter for national planning policy and would be better considered through local design codes.

If no, how else might we achieve this objective?:

It is not considered a strategic matter for national planning policy and would be better considered through local design codes.

Chapter 7

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?

Answer:

We believe that policy already supports small scale nature interventions. More helpful would be updates to Planning Policy Guidance to provide specific examples.

With regards to artificial grass, this seems a very specific issue to be covered in the Framework. The general principles relating to biodiversity (including biodiversity net gain) and flooding should be sufficient within the Framework itself. However, this issue could be addressed in the forthcoming National Development Management Policies. It should be made clear that artificial grass will not be considered acceptable in new developments except for high traffic areas, such as sports pitches or playgrounds. Equally important, however, will be the need to address the use of artificial grass within existing developments. It is suggested that this could be addressed through amendments to permitted development rights.

38 Do you agree that this is the right approach to 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 and most versatile agricultural land?

No

Please set out the reasons for your answer:

We are supportive of the principle of adequate protection of high value farmland for food production. However, the proposed wording of footnote 67 is unclear. The additional sentence begins 'the availability of agriculture land used for food production should be considered'. How is this meant to be interpreted? What does availability mean? In what sense should it be considered?

Paragraph 11 (chapter 7) references the best and most versatile agricultural land, defined as Grades 1-3a. We argue that the absence of a national data set on best and most versatile land, which critically differentiates between Grade 3a and 3b agricultural land it will be difficult to give sufficient consideration to the relative value of land for food production.

39 What method and actions 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?

Answer, including any supporting information:

We have no suggestions on the appropriate method or measures. However, given the complexity of this topic, we request that detailed guidance is provided, along with training (akin to the training support offered on BNG) to assist with upskilling local authority planners if this is introduced.

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

Answer:

No comment

Chapter 8

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

Yes

Please set out the reasons for your answer, including any views on specific wording changes to the existing paragraph:

Yes, we are supportive of this change.

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

Yes

Please set out the reasons for your answer, including any views on specific wording changes to the existing paragraph:

Yes, we are supportive of this change.

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

Yes

Please set out the reasons for your answer, including any views on specific wording changes to existing footnote 54:

Yes, we are supportive of the changes proposed to footnote 54

Do you have any views on specific wording for new footnote 62?:

No, we do not have any views on the wording of footnote 62

44 Do you agree with our proposed new 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

Please set out the reasons for your answer, including any views on specific wording changes to the proposed new paragraph:

Yes, we are supportive of this change – this is considered essential in the journey to net zero.

Chapter 9

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?

Yes

Please set out the reasons for your answer:

Yes, we would consider the timeline proposed allows sufficient time to finalise plans under the current system.

If no, what alternative timeline would you propose?:

46 Do you agree with the proposed transitional arrangements for plans under the future system?

Yes

Please set out the reasons for your answer:

Yes, we are supportive of the proposed transitional arrangements. However, we have serious doubts over the proposed timescale for overall plan delivery under the new system. A two-year period for production is likely to be significantly challenging for multiple reasons:

- Significant financial and team resourcing constraints. Our authority is struggling to attract and retain planners, other than on short-term contracts, which makes developing a Local Plan extremely challenging.
- Increased requirement for community engagement will place even greater strain a reduced programme
- Inability of key stakeholders, including County Council, National Highways and Environment Agency, to respond in a timely manner within the current system. Unless they also have increased resource, it is difficult to imagine how they will be able to respond in a further constrained timetable.
- Councillor election cycles, which often have a significant impact on local plan production timescales.

If no, what alternative arrangements would you propose?:

47 Do you agree with the proposed timeline for preparing neighbourhood plans under the future system?

Yes

Please set out the reasons for your answer:

Yes, we are supportive of the proposed arrangements.

If no, what alternative timeline would you propose?:

48 Do you agree with the proposed transitional arrangements for supplementary planning documents?

Yes

Please set out the reasons for your answer:

Yes, we are supportive of the proposed transitional arrangements.

If no, what alternative arrangements would you propose?:

Chapter 10

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

Yes

Please set out the reason for your answer:

Yes, we are supportive of the proposed scope and principles.

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

Answer:

No comments

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

Yes

Please set out the reason for your answer:

Yes, we support this proposal.

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?

Answer:

It would be helpful if the policies covered countryside protection as a general principle, heritage assets, SPAs and SANGs and pollution. However, our key request is that if national policies are introduced, there must be scope and flexibility for additional policy and guidance to be produced at local level, recognising the need to be able to respond to local circumstances.

Chapter 11

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?

Answer:

No comment

54 How do you think 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?

Answer:

No comment

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?

Indifferent

Please set out the reason for your answer:

No comment

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 feel safe in our public spaces, including for example policies on lighting/street lighting?

No

Please set out the reason for your answer:

This is a detailed matter which should be addressed under the umbrella of well-designed places and could be covered in guidance rather than policy. At the national level, policy should focus on promoting safe places for all.

Chapter 13

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?

Answer:

The current NPPF model which presents policy concisely is considered best practice in comparison to the previous system with multiple policy documents. The key thing is that the NPPF is clearly worded so that it can be understood by planners and the wider community.

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.

Answer:

No comment