

Mutant algorithm, standard method

As the 'mutant algorithm' bites the dust Simon Ricketts asks: "Wouldn't some evidence be helpful, as well as a proper assessment of impacts and alternatives?"

From Simon's SIMONICITY blog at <http://simonicity.com/author/simonicity/>



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On 16 December 2020 the Government abruptly abandoned its proposed revised standard method for calculating local housing need, in the face of political and media pressure from those who saw the method increasing substantially the figure for their particular areas. I covered the consultation as to the proposed revised method in my 29 August 2020 blog post, asking whether we might see a fudged outcome.

My piece referred to press pieces such as the article by Conservative MP for Harborough, Neil O'Brien, The next algorithm disaster – coming to a Conservative constituency near you. This time, it's housing growth. (*ConservativeHome*, 24 August 2020) and Planning algorithm may destroy suburbia: Tory MPs warn Boris Johnson. (*The Times*, 29 August 2020). "Mutant algorithm" they all said.

So the Government has decided to stick to its previous 2017 method (just as much of an algorithm, equally "mutant"), one based on out of date household formation figures from 2014 (2014!), but with a heavy handed readjustment of the figures to ensure that they still add up to 300,000 homes (a number which itself has no empirical basis - but reflective of the extent of the, plain to see, housing crisis). The heavy handed-adjustment? To increase the relevant figure by 35 per cent for England's 20 largest towns and cities, including London.

Imagine if a local planning authority attempted to include housing numbers in its plan in such a way, without evidence! (Or indeed if it introduced a blanket "approve it all" policy equivalent to the effect of the new class E to C3 PD right!).

If anyone knows about planning and housing, it's Chris Young QC. He had put forward constructive suggestions for improving the proposals given the unduly low numbers the draft revised method would have achieved for much of the north. His subsequent LinkedIn post was incandescent:

- Confused about the "new" Standard Method?
- Baffled why it fails to address levelling up across the North?
- Mystified why in an economic crisis, Govt would focus on the largest cities where apartment prices are falling?
- Troubled by the urban focus, when overcrowded housing is a key factors for the UK having the highest Covid 19 death rate in Europe?

Well, here's what just happened

Govt introduced Standard Method 1 in 2017 to make housing targets simpler. But it added up to less than its own 300,000 annual target, and collapsed housebuilding in the North

In August, Govt consulted on a revised version. But it contained a double affordability uplift which piled the numbers into the Shires, causing a Tory revolt

Then experts in this field came up with a more appropriate

set of numbers focussing on achieving 300,000, levelling up the North.

And then Ministers bottled it

They decided to leave the formula, which they know doesn't work, the same. But add 35 per cent to the major constrained cities nearly all of which are Labour controlled, pinning their hopes on a collapse in the office market and town centres and the use of PD rights

Housing policy in this country is not about housing people. Its now 100 per cent about politics"

I've no problem with an urban focus, but what really is the point when those higher numbers will not be achieved, meaning an inevitable failure to achieve the overall target?

Let's take a step back (watch out for the Christmas tree though).

The Government's NPPF tells local planning authorities this: "To determine the minimum number of homes needed, strategic policies should be informed by a local housing need assessment, conducted using the standard method in national planning guidance – unless exceptional circumstances justify an alternative approach which also reflects current and future demographic trends and market signals. In addition to the local housing need figure, any needs that cannot be met within neighbouring areas should also be taken into account in establishing the amount of housing to be planned for." (paragraph 60).

The new standard method is incredibly important, both for this purpose, and because it will form the basis for the new plan-making system proposed in the white paper, where local planning authorities will have to plan, without deviation, for the numbers handed down to them (numbers which will be based on this standard method and then tweaked by government by way of an as yet undevised process).

To understand the detail what has now been introduced, and the justifications given, there are four relevant documents, all published on 16 December 2020:

press statement, Plan to regenerate England's cities with new homes 16 December 2020

- written ministerial statement
- changed planning practice guidance
- the Government's response to the local housing need proposals in "Changes to the current planning system"

The response document tries to downplay the role of the numbers - making them out not to be a "target" but a "starting point":

"Many respondents to the consultation were concerned that the 'targets' provided by the standard method were not appropriate for individual local authority areas. Within the current planning system the standard method does not present a 'tar-

	Stock (2019)	Recent delivery (2017-20)		Current plan adopted	Current plan requirement	Standard method (before urban uplift)	Standard method (with urban uplift)		Difference - Standard method to delivery			
		Dwellings per year	% growth rate				Dwellings per year	% growth rate	Absolute	(Rank)	%	(Rank)
Birmingham	441,536	3,696	0.8%	10/01/2017	2,555	3,577	4,829	1.1%	1,133	3	0.26%	9
Bradford	216,360	1,415	0.7%	18/07/2017	2,476	1,699	2,300	1.1%	885	4	0.41%	7
Brighton and Hove	127,981	461	0.4%	24/03/2016	660	924	1,247	1.0%	786	6	0.61%	4
Bristol, City of	200,614	1,535	0.8%	21/06/2011	1,320	2,368	3,196	1.6%	1,661	2	0.83%	2
Coventry	142,109	1,612	1.1%	06/12/2017	1,230	1,722	2,325	1.6%	713	8	0.50%	5
Derby	110,748	645	0.6%	25/01/2017	647	878	1,189	1.1%	544	9	0.49%	6
Kingston upon Hull, City of	121,348	940	0.8%	23/11/2017	620	394	536	0.4%	-404	19	-0.33%	19
Leeds	350,524	3,014	0.9%	11/09/2019	3,247	2,816	3,763	1.1%	749	7	0.21%	12
Leicester	137,116	1,490	1.1%	25/11/2010	1,280	1,740	2,341	1.7%	851	5	0.62%	3
Liverpool	228,968	2,500	1.1%	-	-	1,552	2,103	0.9%	-397	18	-0.17%	16
London	3,592,322	36,686	1.0%	-	-	69,318	93,579	2.6%	56,893	1	1.58%	1
Manchester	226,995	3,108	1.4%	11/07/2012	3,333	2,607	3,527	1.6%	419	11	0.18%	13
Newcastle upon Tyne	131,535	1,867	1.4%	26/03/2015	850	1,049	1,399	1.1%	-468	20	-0.36%	20
Nottingham	138,671	1,552	1.1%	17/09/2014	1,009	1,197	1,551	1.1%	-1	15	0.00%	15
Plymouth	119,548	1,010	0.8%	26/03/2019	445	623	623	0.5%	-387	17	-0.32%	18
Reading	70,376	710	1.0%	04/11/2019	689	653	876	1.2%	166	14	0.24%	10
Sheffield	248,804	2,454	1.0%	04/03/2009	1,352	2,148	2,877	1.2%	423	10	0.17%	14
Southampton	108,096	967	0.9%	20/01/2010	815	1,032	1,353	1.3%	386	12	0.36%	8
Stoke-on-Trent	116,310	905	0.8%	01/10/2009	570	507	675	0.6%	-230	16	-0.20%	17
Wolverhampton	110,770	769	0.7%	03/02/2011	671	756	1,013	0.9%	244	13	0.22%	11

get' in plan-making, but instead provides a starting point for determining the level of need for the area, and it is only after consideration of this, alongside what constraints areas face, such as the Green Belt, and the land that is actually available for development, that the decision on how many homes should be planned for is made. It does not override other planning policies, including the protections set out in Paragraph 11b of the NPPF or our strong protections for the Green Belt. It is for local authorities to determine precisely how many homes to plan for and where those homes most appropriately located.

In doing this they should take into account their local circumstances and constraints. In order to make this policy position as clear as possible, we will explore how we can make changes through future revisions to the National Planning Policy Framework, including whether a renaming of the policy could provide additional clarity."

Weaselly words! Of course they are a target.

This methodology can no longer be said to be a proper methodological assessment of local need based on demographics and household formation rates - if nothing else, the 35 per cent uplift for the major towns and cities puts paid to that. The justification given for the uplift is a policy justification:

"First, building in existing cities and urban centres ensures that new homes can maximise existing infrastructure such as public transport, schools, medical facilities and shops. Second, there is potentially a profound structural change working through the retail and commercial sector, and we should expect more opportunities for creative use of land in urban areas to emerge. Utilising this land allows us to give priority to the development of brownfield land, and thereby protect our green spaces. And third, our climate aspirations demand that we aim for a spatial pattern of development that reduces the need for unnecessary high-carbon travel."

I quoted Chris Young earlier. For an equally brilliant, expert

and authoritative analysis how about Lichfields? This is a superb post [see previous feature] by Matthew Spry and Bethan Hayes Mangling the mutant: change to the standard method for local housing need on the day of the announcement, including indications as to what the new numbers will mean for the 20 largest towns and cities:

Courtesy of Lichfields

How quickly will the changes come into effect? The Government's response document says this:

"From the date of publication of the amended planning practice guidance which implements the cities and urban centres uplift, authorities already at Regulation 19, will have six months to submit their plans to the Planning Inspectorate for examination, using the previous standard method.

In recognition that some areas will be very close to publishing their Regulation 19 plan, these areas will be given three months from the publication date of the revised guidance to publish their Regulation 19 plan, as well as a further six months from the date they publish their Regulation 19 plan to submit their plan to the Planning Inspectorate for examination, to benefit from the transition period.

The standard method has a role not only in plan-making, but is also used in planning decisions to determine whether an area has identified a 5 year land supply for homes and for the purposes of the Housing Delivery Test (where strategic policies are more than five years old). Where this applies, the revised standard method (inclusive of the cities and urban areas uplift) will not apply for a period of six months from the publication of the amended planning practice guidance. After 6 months, the new standard method will apply."

For London:

"It is clear that in London, in the medium term, there will need to be a much more ambitious approach to delivering the homes the capital needs. The Secretary of State for Housing, >>>

ABOVE:
Table courtesy of Lichfields [see previous feature]

>>> Communities and Local Government expects to agree the London Plan with the Mayor shortly. This new plan, when adopted, will set London's housing requirement for the next five years. The local housing need uplift set out today will therefore only be applicable once the next London Plan is being developed.

In order to support London to deliver the right homes in the right places, the government and Homes England are working with the Greater London Authority to boost delivery through the Home Building Fund. Homes England has been providing expertise and experience to support the development of key sites in London. Sites like Old Oak Common, Nine Elms and Inner East London provide opportunities to deliver homes on significant brownfield sites. The Secretary of State for Housing, Communities and Local Government will consider giving Homes England a role in London to help meet this challenge, working more closely with the Greater London Authority, boroughs and development corporations to take a more direct role in the delivery of strategic sites in London and the preparation of robust bids for the new National Homebuilding Fund."

A final musing for the lawyers

It has become a bit of a knee jerk reaction to proposals to question whether strategic environmental assessment was in fact required but...was it?

The criteria were recently set out again in *R (Rights : Community : Action) v Secretary of State* (Divisional Court, 17 November 2019)

"From the statutory framework it can be seen that a plan or programme is only required to be the subject of an environmental assessment if all four of the following requirements are satisfied:-

(1) The plan or programme must be subject to preparation or adoption by an authority at national, regional, or local level,

or be prepared by an authority for adoption, through a legislative procedure by Parliament or Government;

(2) The plan or programme must be required by legislative, regulatory or administrative provisions;

(3) The plan or programme must set the framework for future development consents of projects; and

(4) The plan or programme must be likely to have significant environmental effects."

It was held in that case that the GPDO and Use Classes Order changes did not require SEA because they do not set the framework for future development consents.

The previous challenge to NPPF changes in *Friends of the Earth v Secretary of State* (Dove J, 6 March 2019) had also failed. Dove J held that, whilst it did set the framework for subsequent development consents, the NPPF was not a measure "required by legislative regulatory or administrative provisions".

But what is wrong with the following analysis?

- criterion 1 - standard method = a plan prepared by government

- criterion 2 - standard method = a plan required by administrative provisions, i.e. required by NPPF paragraph 60

- criterion 3 - standard method sets framework for local plans and for decision making • e.g. onus on the major towns and cities in their next plans to plan for 35 per cent more homes or suffer consequences via the tilted balance and housing delivery test - indeed geographically specific in a way which the NPPF and PPG has previously largely avoided

- criterion 4 - standard method likely to have significant environmental effects - of course.

In any event, wouldn't some evidence be helpful, as well as a proper assessment of impacts and alternatives, before lurching to a new system that has moved a long way further away from being any methodological assessment of local housing need? ■

Simon Ricketts, personal views, et cetera

