

# Impact on housebuilding of proposed changes to the NPPF

The proposals in the consultation are regressive, which means that the next NPPF will be planning for less housing, says Sam Stafford

"Of course I support the building of more homes, but they have to be the right homes in the right places..."

If that has been written once to emolliate a nakedly cynical objection to a planning application or a draft local plan allocation it has been written a thousand times.

The need for the 'right homes in the right places' alas now finds itself at the heart of the Government's attitude towards planning for housing, featuring as it does in the first line of the 'Planning for housing' chapter of the consultation on proposed changes to the NPPF.

The NPPF has since first published in 2012 referred to a commitment to 'significantly boost the supply of housing', but the current proposal introduces into the very first paragraph a need for 'sufficient' housing. The change in tone between the first version and the proposed version could scarcely be more marked. From softening land supply and delivery test provisions, taking in additional policy protection for agricultural land, additional weight for neighbourhood plans even if they do not allocate sites for housing, and then to explicitly indicating the types of local characteristics that will justify a deviation from the standard method, the unstated intention that runs through the consultation document is that the provision of sufficient housing will be more than enough.

This is hardly surprising given the intended audience for the consultation, which is the eighty or so Conservative backbenchers reportedly in a 'Planning Concern' WhatsApp group for whom the 'right place' to build homes is anywhere apart from their constituencies and who needed to be appeased in order for the Levelling Up & Regeneration Bill to progress.

The nub of the Tory rebels' purported grievance is the 'Stalinist, top-down targets', as the standard method was described by Liz Truss during the summer, but grumbings of discontent can be traced back to at least March when Conservative MP Nusrat Ghani opened a House of Commons debate<sup>2</sup> on "planning permission and housing need" for Wealden. Indeed the chickens that have come home to roost were arguably let loose when Boris Johnson's speech to the Conservative Party Conference in October 2021 was interpreted

by The Telegraph<sup>3</sup> as a pledge that houses would not be built on green fields.

It is worth recalling in relation to the standard method how it was introduced in the 2017 'Fixing Our Broken Housing Market' White Paper:

"... at the moment, some local authorities can duck potentially difficult decisions, because they are free to come up with their own methodology for calculating 'objectively assessed need'. So, we are going to consult on a new standard methodology for calculating 'objectively assessed need', and encourage councils to plan on this basis."

It is also worth recalling that the 2020 'Planning for the Future'<sup>5</sup> White Paper proposed replacing the current construct, which is and has only ever been a starting point for the calculation of housing need, with a centrally-set, binding requirement.

The relative decline in the Government's control over it's backbenchers can be traced from the boldness of that proposal to the Government itself now ducking the decision about what to do about the standard method by waiting until 2024 to review the implications of 2021 census data.

Susie Dent's 'Word of the Day' on Twitter as this piece was being written was 'sparple', a 14th century term apparently used to deflect attention from one thing by making a big deal of something else entirely. Deflecting attention, again, towards 'build out rates' is some modern day sparpling.

The standard method is manifestly not fit for purpose (based as it is on ever-more outdated data) and if there was a genuine commitment to building 300,000 new homes the focus of this consultation would be on either making it so (given the case for a standard method is as strong as it was in 2017) or reverting swiftly back to local objective assessments of need. The focus of this consultation is instead though on how local authorities can plan for less than whatever a target is, regardless of how that target is constructed. The standard method limps on then, like the Black Knight<sup>6</sup> in Monty Python's Holy Grail, held together by sticking plaster and an arbitrary 'urban uplift' that most of the cities subject to it either cannot or will not accommodate.

In requiring that this uplift be met "so far as possible" by the cities concerned the consultation document states that it will be important to "capitalise



Sam Stafford is Planning Director at the HBF

on opportunities to further densify in these already-developed urban areas", which definitely should not be at densities that would be significantly out-of-character with the existing area and definitely should include (presumably an awful lot of) mansard roof extensions (the inclusion of which is testament to the lobbying skills of 'gentle density' proponents).

Three changes are proposed relating to matters that may need to be considered when assessing whether a plan can meet housing need.

The first is the point about density and the need for growth to recognise a place's distinctive character and to deliver attractive environments that have local support, which sounds like succour for those who would preserve their constituencies in aspic.

The second is the Green Belt, which many rational, pragmatic planners had been seeking some tweaks in relation to. The NPPF presently states that, before concluding that exceptional circumstances exist to justify changes to Green Belt boundaries, the local authority should have examined fully all other reasonable options for meeting its identified need for development (which includes brownfield maximisation, optimising density, and sharing need with neighbours).

It was to be hoped that the paragraph in question could be amended to confirm unequivocally that exceptional circumstances very much do exist if a local authority has gone through that process in order to help those that do want to grasp that nettle.

It was also to be hoped that an additional paragraph might be added stating that, when the thresholds for demonstrating exceptional circumstances have been met, land around new or proposed public transport nodes can represent the most sustainable locations for new development.

Instead of rational pragmatism though it is to be

# We really don't have to rush to conclusions on this NPPF draft

No rush to respond, says Simon Ricketts

The Government's consultation document on proposed reforms to national planning policy and indicative mark-up of the NPPF have arrived (22 December 2022).

There is much to take on board. By way of indication, the consultation document lists 58 questions. It's 32 pages or so long.

But don't panic!

Consultation doesn't close until 3 March 2023. There is plenty of time for thinking to percolate and indeed to assist with that we have the special Planning Law Unplanned clubhouse discussion at 4pm on 4 January 2023 featuring various planners and planning lawyers, including myself, Zack, Steve and many more. Join the event via this link – do RSVP in the link and get it in your diaries.

I am relieved that for once what we have been presented with is comprehensive and well explained.

>>> emphasised that Green Belt boundaries are not required to be reviewed and altered if this would be the only means of meeting the objectively assessed need for housing over the plan period. Relative to the size of the actual problem, which is that Green Belt (together with housing numbers and cross-boundary issues) is the principle reason for poor local plan coverage, and the size of the perceived problem (12 per cent of England is Green Belt<sup>6</sup> today compared to 5.5 per cent in 1979), this de facto moratorium on Green Belt allocations, no matter how sustainable a site is and how insignificant it might be in landscape terms, seems somewhat disproportionate.

The third way of manipulating a housing requirement downwards will be to 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 because, in this brave new world, heaven-forbid any ambitions that go beyond 'sufficient'.

All of that is dispiriting enough, but it becomes even more so when considering, when requirements are inevitably manipulated downwards, where these homes go because this need will not just vanish into the ether. Well it probably will actually because as well as lowering the soundness bar that local plans need to get over by removing the 'justified' test

This is no longer a "prospectus" as to what the nature of the proposed changes but includes the actual proposed wording of the revised NPPF itself (this revision at least - another revision is already promised). The changes are by and large not a surprise, having been heavily trailed since Michael Gove resumed office. I urge you to scroll through the indicative mark-up of the NPPF - the changes are easy to spot, for instance:

- watering down of the paragraph 11 (d) tilted balance and of the requirements on local planning authorities to maintain an adequate housing supply and meet housing delivery targets
- watering down of the local plan "soundness" test
- references to the standard method as only an "advisory starting point"
- express references to the needs for retirement living, housing with care and care homes

(heaven also forbid that those distant bureaucrats<sup>9</sup> at the Inspectorate ask about reasonable alternatives and proportionate evidence), the 'positively prepared' test will no longer make reference to agreements with other authorities to meet unmet need. A nebulous 'policy alignment test' and voluntary Spatial Development Strategies will not do the heavy lifting that the Duty to Cooperate does, which itself was never going to be a satisfactory replacement for statutory strategic planning.

The consultation document states quite rightly that every local authority should have a simple, clear local plan in place to plan for housing delivery in a sustainable way for years to come and whilst the proposed changes do make the prospect of full local plan-coverage more likely, if plans propose only a politically-palatable housing requirement that does not contribute towards meeting a wider housing market area's needs in full, then that is only pyrrhic local plan coverage.

Plan-making, by dint of Green Belt, housing numbers and cross-boundary issues, is difficult, but rather than grapple with those difficulties the proposed approach calls to mind that of the great H.J. Simpson<sup>10</sup> who tells Bart one day, the latter having just given up on guitar lessons, that if something is hard to do then it is not worth doing.

The consultation document also states quite



Simon Ricketts is a partner with Town Legal LLP

From Simon's blog at [simoncity.com/author/simoncity/](https://simoncity.com/author/simoncity/) Personal views, et cetera

- References to "beauty" and a weirdly specific passages extolling the virtues of mansard roofs
- "Green Belt boundaries are not required to be reviewed and altered if this would be the only means of meeting the objectively assessed need for housing over the plan period"
- Changes in relation to climate change and renewable energy
- "The availability of agricultural land used for food

rightly that planning for housing is not just about numbers, but the numbers and the mechanisms for dealing with the needs of entire market area, are the foundations on which sound plans have to be built. The proposals in the consultation are regressive on those terms, which means that the next NPPF will be planning for less housing. The Planning Concern Group might have been placated, but this should be a concern for everybody else. ■

FOOTNOTES  
 1 <https://www.gov.uk/government/consultations/levelling-up-and-regeneration-bill-reforms-to-national-planning-policy>  
 2 <https://www.planningresource.co.uk/article/1748434/new-minister-suggests-tweaks-local-housing-need-five-year-land-supply-requirements#:~:text=The%20new%20housing%20minister%20stuart,%20the%20levelling%20agenda%20per%20cent%20agenda%20per%20cent%20per%20cent%20>  
 3 <https://www.telegraph.co.uk/politics/2021/10/06/boris-johnson-pledges-no-homes-green-fields/>  
 4 <https://www.gov.uk/government/publications/fixing-our-broken-housing-market>  
 5 <https://www.gov.uk/government/consultations/planning-for-the-future>  
 6 <https://www.youtube.com/watch?v=ZmlnkxbvICs>  
 7 <https://policyexchange.org.uk/publication/strong-suburbs/>  
 8 <https://www.gov.uk/government/statistics/local-authority-green-belt-statistics-for-england-2021-to-2022>  
 9 <https://www.housingtoday.co.uk/news/sunak-pledges-to-reduce-say-of-distant-bureaucrats-in-planning/5120370.article>  
 10 <https://www.youtube.com/watch?v=1G8XQA9QFS0>

This article was first posted on Sam Stafford's personal blog

**An indicative timeline:**  
**Consultation closes: 3 March 2023**  
**Government response to consultation and publication of revised NPPF: Spring 2023**  
**Changes to take effect that are being consulted upon in the current document as to as to:**

- **Increasing the emphasis on provision of social rented housing**
- **More older people's housing**
- **More small sites for small builders**
- **Greater emphasis on the role that community-led development can have in supporting the provision of more locally-led affordable homes**

>>> production should be considered, alongside the other policies in this Framework, when deciding what sites are most appropriate for development".

- Important transitional arrangements in paragraph 225 and 226

But what is being consulted upon does not stop at the proposed changes to the NPPF but various other longer term aspects of the reform agenda.

If one thing shines through the consultation document it is that re-construction of the system is going to be underway for some years. An indicative timeline:

Consultation closes: 3 March 2023

Government response to consultation and publication of revised NPPF: Spring 2023

Changes to take effect that are being consulted upon in the current document as to as to:

- Increasing the emphasis on provision of social rented housing
- More older people's housing
- More small sites for small builders
- Greater emphasis on the role that community-led development can have in supporting the provision of more locally-led affordable homes

Consultation on proposed changes to the rest of the NPPF and on more detailed policy options and proposals for National Development Management Policies (supported by environmental assessments), once the Levelling-up and Regeneration Bill is passed through all its Parliamentary stages: from Spring 2023 (NB here is much already in the consultation document which helps in setting out more clearly than previously the intended scope of national development management policies, which will be in a separate document to the NPPF)

Three further measures to be introduced, via changes to the NPPF to encourage developers to build out "as soon as possible":

"a) We will publish data on developers of sites over a certain size in cases where they fail to build out according to their commitments.

b) 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).

c) The National Planning Policy Framework will highlight that delivery can be a material consideration in planning applications. This could mean that applications with trajectories that propose a slow delivery rate may be refused in certain circumstances."

There will be "a separate consultation on proposals to introduce a financial penalty against developers who are building out too slowly".

Changes to the soundness test will apply to local plans which have not reached pre-submission consultation stage within 3 months of the revised NPPF: summer 2023

Further updates to the NPPF: later in 2023

Whilst flexibility as to the use of the standard method will be in place from Spring 2023 as part of the revised NPPF, there will be a review of standard method for calculating local housing need, once 2021 census is published: 2024 (NB "It remains our intention to publish the 2022 Housing Delivery Test results. However, given our proposed changes and consultation on the workings of the Housing Delivery Test, we would like to receive views on whether the test's consequences should follow from the publication of the 2022 Test or if they should be amended, suspended until the publication of the 2023 Housing Delivery Test, or frozen to reflect the 2021 Housing Delivery Test results while work continues on our proposals to improve it. We will take a decision on the approach to the Housing Delivery Test and the implementation of any the proposed changes in due course, once we have analysed consultation responses").

Implementation of the LURB plan-making reforms: late 2024

Transitional arrangements will mean that for the purposes of decision-making, "where emerging local plans have been submitted for examination or where they have been subject to a Regulation 18 or

19 consultation which included both a policies map and proposed allocations towards meeting housing need, those authorities will benefit from a reduced housing land supply requirement. This will be a requirement to demonstrate a 4-year supply of land for housing, instead of the usual 5": two year transitional period, so until Spring 2025

Deadline of 30 June 2025 for plan makers to "submit their local plans, neighbourhood plans, minerals and waste plans, and spatial development strategies for independent examination under the existing legal framework; this will mean that existing legal requirements and duties, for example the Duty to Cooperate, will still apply.

We are also proposing that all independent examinations of local plans, minerals and waste plans and spatial development strategies must be concluded, with plans adopted, by 31 December 2026. These plans will be examined under the current legislation."

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

Latest date when LPAs must begin the new style plan-making process (if their previous plan was adopted on 31 December 2026): 31 December 2031

Of course these dates, all of them taken from or derived from the consultation document, could slip (surely not!) and priorities could move in an entirely different direction, but somehow I sense that this is a package of reforms which is more likely to stick. So let's have a rest for a week or so after a ridiculous year, maybe tune in on 4 January, but in any event do some constructive thinking over the next couple of months ahead of that consultation deadline. It's a serious set of proposals which deserves a serious response. Since I came off Twitter I think I may be getting a bit soft... ■