

## THE LEVELLING UP AND REGENERATION BILL - REFORM TO NATIONAL PLANNING POLICY CONSULTATION

### 1. RECOMMENDATIONS

1.1 It is recommended that the Cabinet:

- (a) Consider the content of the report and approve the suggested approach to the Council's response: and
- (b) Delegate authority to the Executive Head of Planning Regeneration and Economy in consultation with the Portfolio Holder for Planning, Regeneration and Infrastructure to make minor amendments to the response.

### 2. INTRODUCTION

2.1 The Government opened a consultation on planning reforms on 22<sup>nd</sup> December 2022. It is a wide ranging consultation seeking views on the proposed approach to updating the National Planning Policy Framework (NPPF). It is also seeking views on the proposed approach to preparing National Development Management Policies, how it might develop policy to support levelling up, and how national planning policy is currently accessed by users.

2.2 The consultation ranges from discussing proposals that will be brought in as part of the Bill, or subsequent secondary legislation, to changes that the Government hope to bring forward through amendments to the National Planning Policy Framework (NPPF) this spring. The Government further commits to a 'wider review' of the NPPF later this year. Therefore, the consultation contains three sets of proposals to reform the planning agenda, with the most sweeping of changes to the plan-making system being introduced in 2024 onwards.

2.3 The suite of proposals includes the following;

- The calculation of housing need and the application of local constraints and character in attempting to meet that need,
- Changing the circumstances in which the five-year housing land supply requirement needs to be demonstrated,
- Addressing issues relating to housing delivery and land supply tests as they relate to local authority performance,
- Increasing the accountability of developers and data regarding their performance on housing delivery,
- Promoting more beautiful homes, including through 'gentle densification',
- Safeguarding existing biodiversity on sites proposed for biodiversity net gain
- Making sure that food security considerations are factored into planning decisions that affect high quality farmland,
- Seeking views on how planning policy could address climate adaptation, alongside ongoing work on flood risk assessments and exploring a form of carbon assessment for development

- Enabling new methods for demonstrating local support for onshore wind development
- Outlining the programme of transition from the current method of Local Plan preparation to the new approach following the enactment of the Levelling Up and Regeneration Bill
- Outlining the approach to preparing National Development Management Policies.

The consultation closes on 2 March 2023 and the Government have suggested that they will respond to the consultation in the spring, publishing an updated NPPF as part of that response.

### **3. NEW FOREST CURRENT PLANNING CONTEXT**

- 3.1 The Council's Local Plan Part 1 was adopted in July 2020 and prepared under the transitional arrangements afforded when the standard methodology for calculating housing need was first introduced. The housing requirement provided for in the Local Plan identified 10,420 additional homes within the Plan Area during 2016-2036 to help meet the needs of the District within the Southampton, Bournemouth and Salisbury housing market areas, directing larger scale provision to the main towns and larger villages.
- 3.2 The Council can not at this point in time demonstrate a 5 year housing land supply of deliverable housing land with working being finalised to produce an updated five year housing land supply figure taking into account last year's delivery of new houses along with the latest information about sites coming forward.
- 3.3 In such circumstances the NPPF (para 11d) indicates that the tilted balance is engaged, whereby in applying the resumption in favour of sustainable development even greater weight should be accorded in the overall planning balance to the provision of new housing.
- 3.4 the Council must also apply the presumption of sustainable development if the results from the Housing Delivery Test (HDT) fall below 75%. The HDT measures the number of homes delivered against the housing requirement over the previous three years. Members will recall that the HDT was introduced in 2018 to measure the number of homes required over the previous three financial years against the number of homes actually built, or delivered. Councils have often complained that this is an unfair test given the Councils' often limited role in actually building houses, and particularly as there are different sanctions applied depending on how poor the results are.
- 3.5 If results are below 95% of the requirement, then the Council must produce an action plan setting out how it plans to rectify the situation. If results are below 85% of the requirement, the Council must apply an additional 20% 'buffer' to its five-year housing land supply requirement (which essentially means that permissions should be granted for an additional 20% of homes above the required number in order to avoid the situation where decisions on future planning decisions needs to be taken in accordance with the presumption in favour of sustainable development, the aforementioned 'tilted balance'. If results are below 75% of the requirement, then the council must apply the tilted balance in any case.
- 3.6 The Housing Delivery Test (HDT) results published in February 2019 generated a requirement for the Council prepare a Housing Delivery Action Plan (HDAP), and to add a 20% buffer to the housing land supply. A Interim Housing Delivery Action Plan was published in January 2020 at Table 2;

<b>Year</b>	<b>Requirement</b> (based on household projections for 2015-16 to 2017-18. Compares to the adopted Plan target: 196 homes per annum)	<b>Completions</b>
2015-16	717	138
2016-17	726	350
2017-18	700	266
<b>3 yr total</b>	2,143	754
	Housing Delivery Test Result(completions/requirements )	35%
	HDT Consequence: Action Plan and 20% Housing Supply Buffer	

- 3.7 The results of the 2021 Housing Delivery Test covering the period 2018/19- 2020/21 was published by Government in January 2022, the results show that the Council achieved a Pass score of 141% in the Housing Delivery Test 2021 Measurement. The table below sets out the results of the Test

	2018-19	2019-20	2020-21	Total
Number of Homes required	300	275	200	774
Number of Homes Delivered	359	308	422	1089
HDT Measurement				141%

- 3.8 The Housing Delivery Test results for 2019-2022 would normally be expected to be published in early 2023 but have not yet been published.

#### **4. CONSULTATION PROPOSALS**

- 4.1 The consultation includes proposals to be brought forward on at least three different timescales. This report presents them in expected chronological order.

##### **Changes - Spring 2023**

##### **Housing need**

- 4.2 The consultation has made it clear that the national housing need figure of 300,000 homes per year remains and there will be no changes will not happen until 2024. This is because the Government has said they will 'review the implications on the standard method of new household projections data based on the 2021 census, which is due to be published in 2024'. Members will be aware that the starting point for calculating housing need is the 2014-based household projections which are now eight years old. It is considered likely that more up to date data on household projections would indicate a lower level of growth for the New Forest against the 2014-based data set. However, the Government remains committed to delivering 300,000 homes a year in the next couple of years, so what is not known is how any future review of the 2021 census data on household projections would feed into the formula for calculating housing need. Careful consideration will need to be given to how the Council approach future Plan making in light of this uncertainty.

### **'Alternative method' for calculating housing need in limited circumstances**

- 4.3 The standard methodology for calculating housing need always been unpopular and has been subject to considerable national debate, particularly as the data used on household projections becomes increasingly out of date. The standard method has only ever been a starting point and the Government's current policy is that Councils can put forward a different method if there are 'exceptional circumstances'. There has not been guidance on what these circumstances might be, and it is one of the proposals within this consultation that the Government do set out in planning guidance circumstances where an alternative method might be acceptable.
- 4.4 The two examples given are an island with a large proportion of elderly residents, which could apply to the Isle of Wight, or a town or city with a large student population.
- 4.5 The draft response includes reference to how the New Forest has a higher than average percentage of elderly residents and other characteristics which could be considered to be exceptional, for example its geography 'sandwiched' between the coast and a national park together with a large student populations to either side of the District. In addition, the draft response makes reference to the number of environmental mitigation measures that are required to bring development forward in the District. These measures are required to comply with national legislation and therefore should be seen as a significant challenge to addressing housing need in future Local Plans. These characteristics may then be supported by the Government to allow us, in future plan-making cycles, to use an alternative method for calculating housing need. The strengthened clarity that the standard method is only the starting point is to be welcomed.

### **Role of Green Belt in meeting future needs**

- 4.6 The clarification that local planning authorities are not compelled to undertake reviews of Green Belt for potential release of land for development where such needs cannot otherwise be achieved is welcome. Such an approach is considered to recognise the inherent permanency of Green Belt policy and does not preclude the local planning authority (or indeed other plan-making bodies) from undertaking such a review where particular circumstances may justify so. Nevertheless, clarity is sought as to how the potential impacts that this approach, in combination with other policies of the NPPF, would have on overall housing delivery across the country given the significant amount of Green Belt that exists in areas of likely significant future housing demand.

### **Constraints to meeting housing need**

- 4.7 In addition the Government has said that 'if housing need can be met only by building at densities which would be significantly out-of-character with the existing area, this may be an adverse impact which could outweigh the benefits of meeting need in full'. This could be an argument that could apply to future Local Plan making as the capacity of the district diminishes and the availability of suitable sites reduces.
- 4.8 The Government wishes each authority to develop Local Design Guides or Codes in order to respond to national design guidance and ensure that place-making is consistent with a high-quality standard of design. Officers support the increasing recognition given in the NPPF to the importance of beautiful and attractive places.

### **Changes to five-year housing land supply**

- 4.9 The tracked change version of the NPPF, subject to responses on the consultation, will be introduced this spring. One of the changes within that is to remove the need to demonstrate a five-year housing land supply if the Council has a up to date Plan (adopted in the past 5 years). The consequence of this is that the tilted balance could not apply to the determination

of planning applications for a number of years because of a lack of housing land supply which is welcomed.

- 4.10 The consultation also proposes to remove the need to apply a buffer to the five-year housing land supply calculation. Members will recall that in normal circumstances of 5% buffer is required to aid 'choice and flexibility in the market', however where HDT results fall below 85%, this is increased to 20%. This is a positive proposal and it is supported in the draft consultation response.

### **Changes to the Housing Delivery Test**

- 4.11 Another proposal due to come forward in the Spring 2023 updated NPPF is the inclusion of a permissions-based test in the Housing Delivery Test (HDT). This test looks at the past three years' housing delivery against the housing requirement, and there are three penalties should delivery fall below 95%, 85% or 75%. The inclusion of a permissions-based test should be welcomed, as it recognises that this is the part of the development process that is within the control of Councils'. However, in order to make sure that the number of permissions will generate the required number of homes being delivered, the Government's proposals are to include a buffer on top of this part of the test. This buffer relates to the number of permissions that are never actually built, termed 'lapsed permissions'. Their evidence suggests that on average the number of permissions that do not translate into homes built on the ground is 15%, and so the proposal is that in order to be able to take advantage of this permissions-based test, a Council must demonstrate that it has permitted sufficient homes for its requirement and an additional 15% of homes. The draft response questions whether this buffer is too high and suggest that locally determined 'lapse rates' should be used to ensure that the number of permissions granted is not excessive.

### **Wider Review – Late 2023 29.**

- 4.12 This consultation sets out the scope of a wider review of national planning policy to be undertaken later in 2023. There is little detail on these proposals but it is understood that there will be further consultation later this year.

### **National Development Management Policies**

- 4.13 The consultation references the introduction of a suite of National Development Management Policies (NDMPs) which will be implemented following the passing of the Levelling Up and Regeneration Bill (LURB) later this year. The consultation makes it clear that these policies would be separate to the NPPF with the same weight applied to them as to the development plan, i.e. the Local Plan. This is important because to date government guidance has been of a lesser status in the determination of planning applications than policies within the Local Plan, but the intention is to streamline the Local Plan production process and to avoid repetition of policies that are largely consistent across the country.

### **Biodiversity and Climate Change**

- 4.14 Other proposals planned as part of the future wider review relate to the potential for further protection for irreplaceable habitats, such as ancient woodland, and the intention to work with Defra to avoid the degradation of sites before planning applications are submitted, which will be important in terms of calculations of biodiversity net gain. Other proposals that may come as part of a wider review include ways of the planning system making a greater contribution to climate change mitigation and adaptation the continued lack of a clear statement on how the planning system should address the transition to net zero carbon is a disappointing omission. This is proposed to be addressed in the next iteration of the NPPF in 2024, this leaves increasingly little time for policy-makers and decision-takers to implement this at a local level.

## **Ending the Duty to Co-operate**

- 4.15 Another proposal to follow in the wider review is the abolition of the duty to cooperate. However, this duty is to be replaced by alignment policy and further consultation will be undertaken to understand what that might mean in practise. This is likely to have implications for the work of the Partnership for South Hampshire, particularly because the consultation is clear that any unmet need arising from authorities which have to apply an 'urban uplift' to their housing needs targets, which includes Southampton, should not be exported to neighbouring planning authorities, unless a voluntary agreement is reached.

## **Revised Planning System - 2024 34.**

- 4.16 The final timescale for introducing planning reform is via a revised planning system which is predicted to be in place in late 2024, following the enactment of the LURB and potentially secondary legislation.

## **Streamlining Local Plans**

- 4.17 This new planning system largely relates to a requirement to deliver local plans more quickly. Local planning authorities would be required to start a review by five years after the date of adoption of their latest local plan and would have no more than 30 months to adopt the next one. Careful consideration will need to be given to this revised timescale as Local Plan Review work progresses. The consultation document sets out complicated transitional arrangements for the introduction of a new plan-making system. In an attempt to speed up the Plan Making process it is proposed to the removal of the 'justified' test of soundness.
- 4.18 Also of note is that Supplementary Planning Documents (SPDs), would need to be replaced by Supplementary Plans which would carry the same weight as Local Plans, and that the existing SPDs would cease to have effect at an as yet undefined point in time.

## **5. CONCLUSIONS**

- 5.1 This consultation is far reaching and sets out future changes in relation to housing need, housing supply, design, protecting the environment and tackling climate change, new national development management policies and a future plan making system, all within the context of enabling levelling up and regeneration. This report highlights those proposals that are most significant for the District. Many of the proposals within the government consultation are not detailed and will be subject to further consultation. The draft consultation response is provided as appendix 1.

## **6. FINANCIAL IMPLICATIONS**

- 6.1 There are no immediate financial implications arising from this consultation.

## **7. CRIME & DISORDER IMPLICATIONS**

- 7.1 None.

## **8. ENVIRONMENTAL IMPLICATIONS**

- 8.1 There are a number of proposed changes to the Planning system included in this consultation that if implemented will serve to further protect and enhance the environment of the New Forest.

## **9. EQUALITY & DIVERSITY IMPLICATIONS**

9.1 None

## **10. PORTFOLIO HOLDER COMMENTS**

10.1 Whilst there is a way to go before we have full details of all the potential planning reforms signalled in the consultation, the general direction to provide more discretion and self-determination to councils and to local communities is encouraging. The recognition that areas need to set housing targets and standards that properly reflect the circumstances in their area is helpful, as are changes to remove housing supply tests that undermine local plans and public trust in the planning system. Also, I welcome the reaffirmation of the importance of nature recovery and protecting irreplaceable habitats and the Green Belt.

### **For further information contact:**

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### **Background Papers:**

None

## Consultation Questions

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

The Council agrees that local planning authorities should not have to continually demonstrate a deliverable 5YHLS. The appropriateness and deliverability of local plan targets and sites is tested at examination stage, taking into account best available information including developer and other relevant views of delivery timescales for the site build out and for the provision of any necessary infrastructure that may bear on the site timetable. The relevant soundness tests include ensuring that the local plan is sufficiently flexible, which should buffer any unforeseeable change of circumstances on any given site. In addition, based on the NPPF and LURB proposals the process of identifying sites for the following plan period will typically commence within at most 30 months of the adoption date of the local plan in order to meet the five year review deadline. However there needs to be clarification on what is meant by 'the housing requirement as set out in strategic policies is less than five years old'. There needs to be certainty whether the period starts at date the Plan is submitted for examination or the date of adoption.

### **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)?**

The Council agree that buffers should not form part of the 5YHLS calculation. The supply buffer and presumption in favour approach has critically undermined the plan-led system and public trust in the planning system. It has also created a perverse incentive for developers to overstate delivery rates and timescales at examination stage, on the hope or expectation that within a relatively short period delivery shortfalls would lead to application of the presumption in favour of sustainable development, weakening the LPAs ability to apply their adopted plan policies. The presumption at application level also works against the achievement of sustainable development in aggregate by undermining the prioritisation of urban and brownfield development first, and by undermining the coordinated alignment between planned growth and the provision of infrastructure needed to support and enable that growth. As noted in (1) above the appropriateness of the housing target and the sources of supply to meet it can and should be resolved at examination stage.

### **3. Should an oversupply of homes early in a plan period be taken into consideration when calculating a 5YHLS later on or is there an alternative approach that is preferable?**

The Council support the proposal to enable oversupply to be taken into account within reason in relation to the start date for past oversupply. For example, an emerging local plan should be able to take account of oversupply in the currently adopted plan period, as past oversupply would then be re-set each time a plan is submitted and examined. This would improve overall fairness or balance as the standard method already provides an uplift over the demographic baseline e.g. based on market signals, the reason why the extant NPPF-NPPG does not require consideration of past housing undersupply.

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

Provided that the replacement plan is submitted for examination no more than 5 years from the adoption date of the current local plan, housing oversupply against the most recently adopted local plan target can be treated as contributing to meeting need for the replacement plan.



**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?**

The Council supports the proposal to give additional protection be given to areas with neighbourhood plans that have allocated development sites, which is the practical effect of the suggested changes to 14 (a) and (b). These changes would replace the protection previously provided under clause (c). Such protection is warranted as it is a significant, costly and risky piece of work to carry out housing allocations at this planning tier/level, and the communities that choose to do so should be appropriately rewarded to ensure that their vision can be achieved and not easily stymied by speculative alternative development proposals that are not plan-led. The deletion of 14 (c) and (d) is consistent with proposed changes to buffers elsewhere.

**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?**

The Council agreed that the NPPF could be clearer about the importance of planning for homes and other development our communities need supported by the right infrastructure.

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

The Council consider that there should be a commitment to review the standard methodology to take into account more up to date data and that this change should take place as soon as that data is available rather than waiting until 2024.

The impact on realistically achievable housing supply, as opposed to the achievement of need as calculated by the standard method, should not be overstated. The standard method would continue to apply in locations where it can be sustainably met, and where it cannot be sustainably met standard method-based targets would not have been adopted or achieved anyway.

The proposed changes may reduce the prospects of success for sites closest to the margins of sustainability pursued speculatively under the tilted balance approach. Conceivably this may have a modest dampening effect over time on supply in areas that are significantly affected by NPPF footnote 7 constraints, and/or that have insufficient available land suitable for development. However it is these marginal speculative sites that tend to be most problematic for communities' trust in a plan-led system and the proper coordination of infrastructure and service provision.

The NPPF could and should say more about how and where the government's national house building objectives should be met, rather than relying on a formula that is not sustainably deliverable in many areas where current growth pressures are highest. It would be helpful to include in the NPPF a high level positive strategy that better aligns the provision of homes and other development with sustainable opportunities to deliver on the levelling up agenda and major infrastructure spending commitments. As a minimum it would be helpful to update the NPPG to specifically identify levelling up as one of the reasons to do more than the standard method starting point, where it is sustainable to do so.

**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?**

The Council agrees that there should be clarity on what constitutes exceptional circumstances for the use of an alternative approach for assessing housing need. As circumstances will vary a statement based on sustainable development principles would be preferable to attempting to compile an exhaustive list of possible considerations.

**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?**

Green Belt is widely perceived by the general public to be protected land that should not be developed. Notwithstanding long-running political and development industry debates about the pros and cons of Green Belt designation, the NPPF as proposed to be revised continues to identify Green Belt as a footnote 7 constraint, locations where housing and other built development is deemed not appropriate in most circumstances.

Green Belts should nonetheless be reviewed periodically to ensure that land subject to its controls still serves the purposes of Green Belt. It should not be necessary to do so every plan-making cycle.

**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?**

This Council considers that character and landscape assessments could be used to evidence why an authority's housing need can only be met by building at densities significantly out of character with the existing area. Character assessments could look at distinct areas of a district, borough or city and set out the range of residential densities that can be found in that area. However, to ensure robustness appropriate densities would need to be set out, and agreed, within a Local Plan or Local Design Code and be fixed for a number of years. Arguably, this timeframe should be at least five years in accordance with the lifespan of strategic policies on housing requirements. It maybe within an administrative area there is a strong case for different densities across the area reflecting matters such as the need to be able to maximise densities on urban regeneration sites where viability is an issue

**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?**

Yes as a separate test, as it is not the wholesale abandonment of evidence some commentators have suggested it to be. Any departure from meeting standard method OAN in full will still need to be justified for the plan to meet the test of being positively prepared (as it is proposed to be amended). The plan will still need to achieve sustainable development, justified or evidenced by a sustainability appraisal. Previous NPPF/G changes has already removed the requirement for a plan to be the most sustainable of all reasonable and sustainable alternatives, but the SA process still requires all reasonable alternatives to be tested so that will remain part of the plan-making process (assuming this requirement remains in place when EU-based legislation made into UK law is replaced with domestic legislation).

The Council is concerned that the removal of the words 'an appropriate strategy' would remove the obligation on the Local Planning Authority to define its vision and strategy for growth in the district which is surely the purview of locally elected representatives, rather than a potential representor on the plan. In addition, much of the evidence is required either by national policy or guidance, or legislation.

The test of soundness that could usefully be amended is the need to evidence the effectiveness of plan policies over the plan period. This is a key driver of much evidence to demonstrate that policies can be delivered in ten plus years. Given the need to review Local Plans every five years, this test could usefully be altered to 'deliverable over the next five year period' which in itself would reduce the level of detail that many evidence-based studies need to go into.

**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?**

Once the updated NPPF is published LPAs currently at an advanced stage of plan preparation should be given the option to be examined under their choice of transitional or updated arrangements, stating which when a date is set to submit the plan for examination. One of the reasons justifying a flexible approach is to reflect the lead-in times for evidence studies LPAs may have already commissioned to ensure they are not wasted unnecessarily.

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

The urban uplift is arbitrary and appears undeliverable in many cases. It should be refocused to urban areas that have administrative control of surrounding land, and complemented generally with mechanisms to maximise the sustainable use of urban and brownfield land, including non-planning mechanisms e.g. to at least level the cost and viability playing field relative to using greenfield land.

In the interests of transparency and to help amplify Government policy, further details and explanation are sought from the Government on the methodology that is used to determine which areas the uplift applies to, and the reason as to why 35% has been chosen as the figure to apply.

**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?**

The Council welcomes the consultation proposals to help ensure that the urban uplift is delivered in those urban areas, rather than spilling over into neighbouring authorities and putting undue pressure on greenfield sites. This is a concern that has been felt our work on a subregional level given the inclusion of Southampton in the list of the top 20.

Revised NPPF should stress that housing uplift in cities must be part of a planning balance that also plans and provides for other sub-regionally important functions e.g. employment, retail.

**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?**

We agree that the housing need must be met within the urban area where there is the supporting infrastructure available. A significant concern would be that in a situation where there is unmet need, the area to meet the uplift could extend to out of date 'Housing Market Areas' (HMA) based on pre-Covid pandemic modes and frequencies of travel and would not reflect the much larger geographic catchments for jobs now that hybrid working is common practice. To use old HMAs would be inappropriate given that those peripheral areas do not have access to the jobs and public transport solutions and are therefore more car dependent, less sustainable locations. Areas within the same HMA can be very distinct in terms of character and it would be inappropriate to allow the urban uplift, which is designed to increase housing in the most sustainable locations, to spill into less sustainable peripheral locations.

The Council remain unconvinced that there is a sound rationale for the 35% uplift in Southampton and question whether this is the right approach particularly if it results in the loss of other uses (employment, retail, etc.) for have play an important sub-regionally role to neighbouring authorities.

**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?**

It is reasonable to have some buffer for the transitional period.

**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?**

The Council considers that any additional guidance on constraints that could be applied to plans at a significantly advanced stage would be likely to slow down plan making.

**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?**

The current Housing Delivery Test undermines the Plan-led system. It holds local authorities solely accountable for the level of housing completions or lack of completions in their planning area when in many cases this is something that local authorities have very limited control over because they do not themselves build and deliver most housing. This places pressure on authorities to release more land for development or increases the risk of local authorities facing speculative planning applications for housing development in locations not allocated in the development plan and ultimately delivering unsustainable development. The addition of a sufficient permissions-based test would provide the possibility to judge local authorities on an element of the system they have some control over and not automatically place local authorities under ‘the presumption’ solely because housebuilders fail to build sufficient homes to meet the local authority’s annual housing target figure.

However, more details need to be set out as to how the sufficient permissions test would work in practice, i.e., what permissions would count and how would planning permissions for a large number of dwellings (e.g., 100 or 200 or 300 etc.) be apportioned over the period, would a standardised average annual build-out rate generated by Government be used to calculate what could reasonably be completed over the period assessed against or would it be based on a local authority’s published housing trajectory or would the entirety of the dwellings granted in such a permission be counted in full over the relevant Housing Delivery period.

**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?**

The Council do not support this approach and sees it as unnecessary and inherently inconsistent with the emerging national policy proposal to remove the buffer requirement from the five-year housing land supply calculation. There should be no necessity for the ‘switch-off figure’ to be any more than 100% of the requirement, bearing in mind the need for the sites to be ‘deliverable’ in order to be counted. Additionally, the requirement to pass the Housing Delivery Test is for 95% or more of homes to have been delivered against the three-year target so there will be some degree of supply flexibility against this in any event.

Requiring significantly more permissions to have been granted risks placing authorities under additional pressure to permit speculative applications to achieve the flexibility buffer and risks undermining the Plan-led system.

If the 115% requirement were to be retained, it should be clarified that permissions do not need to be subject to an appraisal of their deliverability against the NPPF glossary definition, and the status of council resolutions to grant permission subject to a s106 should be clarified.

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

Permissioned sites can be assessed under the current NPPF definition of ‘deliverable’ to ensure a robust method for counting deliverable homes.

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

The publication of the 2022 Housing Delivery Test results should be delayed until the proposed changes to the way in which the Housing Delivery Test will operate has been finalised. Until the new Housing Delivery Test has been finalised, its consequences should be frozen to reflect the 2021 Housing Delivery Test results.

**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?**

Yes as it meets the highest priority of need, but it will likely need non-planning support through government grants to assist development viability to avoid consequent reductions the delivery of other affordable tenures such as affordable rent and shared equity.

**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. It should make clear what this 'specialist' accommodation should provide, in respect of space and accessibility standards, together with the different levels of care they would be expected to enable. Too much of current market retirement provision might be characterised as an overpriced 'lifestyle' product that provides little in the way of useful care or health services to support residents through the ageing process, essentially 'moving them on' when care is most needed (overpriced as second hand units routinely sell at a substantial discount to new, reflecting high service charges for limited service provision).

**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)?**

The current NPPF requirement at paragraph 69(a) for local authorities to identify, through the development plan and brownfield registers, land to accommodate at least 10% of their housing requirement on sites no larger than one hectare, is entirely arbitrary and it is not clear how this assists plan-making (it may create additional work by either lengthening the time-taken and work needed for the site identification process in order to meet the 10% figure or through authorities having to produce extra evidence to demonstrate why they cannot meet the 10% figure).

**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?**

Small sites rarely deliver high levels of affordable housing as the threshold for onsite affordable housing provision is usually 10 units. On sites above the threshold, First Homes will help. Funding support for registered providers may assist them to compete for land.

**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?**

Yes, as long as such provision meets reasonable standards or principles for affordability and eligibility, which may need to be defined. Important that any other organisation has the ability, resource and longevity to ensure that the AH will remain as such and be managed. Care would need to be taken to ensure that this option could not be abused by those providers who may wish to maximise profit or to control the occupancy of affordable homes

A key requirement could be that organisations are a non-profit organisation or charity, and that any excess funds are ringfenced for the maintenance and/or provision of further affordable homes. In the case of homes for social or affordable rent, the non-registered provider should also be required

to seek allocation of their site in Local Plans, to ensure they help meet local affordable need and that homes are appropriately prioritised to households on the Council's Housing Register.

**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?**

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

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

(27-29) Access to land at a viable price is the critical issue, the planning system itself is already sufficiently enabling if a site can be found. Any policy change that served to crystallise landowner hope value would make the delivery of exception sites more difficult. For example, our experience in a footnote 7 constrained area is that the possibility for a portion of enabling market development has not helped to bring sites forward. Land owners sit on them waiting for an opportunity for 40 times agricultural value.

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

Whilst in principle this sounds a positive initiative there would be clear difficulties in applying this in practice. Consideration needs to be given to the fact that planning permission runs with the land and not the applicant. It is acknowledged that that public confidence in the planning system is undermined when planning rules are deliberately ignored. In terms of the types of past behaviour that should be considered to be in scope, the Council has experience of developers deliberately clearing land which contains protected species and ecologically valuable habitats, failure to pay contributions required under Section 106 and CIL and not building in accordance with approved plans.

However, the Council recognises the difficulty in applying this in practice especially in the context of the long-standing principle that planning decisions should be based on the planning merits of the proposed development and not the applicant

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

The current planning enforcement system could be reviewed to ensure that there are measures that the Council could quickly deploy to address actions by developers to work around the planning system.

**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?**

The measures proposed will be helpful. It would make sense for local plan site allocation proposals and planning applications to include a proposed delivery schedule, to be updated and put on public record at the point of examination/application determination respectively. Annual completion reports should include an explanation for any shortfalls and how they can be made up (equivalent to a Housing Delivery Test action plan and perhaps using the same % shortfall thresholds for intervention). However it must be recognised that there will be genuine reasons why developers can not bring development forward.

**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?**

Yes. This makes not only new development more acceptable but also raises the possibility for higher intensities of development to be made acceptable to communities. But take care that beauty is understood as being not just about buildings themselves, but about the whole development including streets as well as spaces and buildings.

**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?**

Para 124e uses the word 'beautiful' clumsily where attractiveness is already present. It is important to ensure that decision makers, applicants and communities avoid the tendency to think of design as being just about aesthetics so reference to "the importance of beauty in securing efficient land use through creating well-designed, attractive and healthy places."

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

The Council agrees. The Council consider that some plans and drawings are not sufficiently accurate or are difficult to interpret. The Council considers that use of digital plans and use of three-dimensional computer models should be submitted where appropriate. This would also help to support the Government's plan for a digital planning system.

It should be noted that it's important not to create unrealistic expectations about the ability to take enforcement action against minor deviations from the approved scheme

**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?**

No. Mansard roofs are simply one of a whole raft of Architectural devices which may or may not be appropriate within a landscape (or townscape) and which could achieve this objective. This is an issue for local design consideration and concerns both contextual distinctiveness as well as issues of beauty.

**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?**

The Council would like to see national policy further strengthened by including wording that supports development that includes small scale nature interventions such as bat and bird boxes, bee and swift bricks and hedgehog highways. This is a matter that could be included in National DM Policies. It would be important to make clear that features such as bat and bird boxes, bee and swift bricks and hedgehog highways are included as permanent features within development, including being made from durable materials and located within the fabric of the buildings wherever possible, to ensure they provide long lasting benefits to nature and are not removed upon occupation. The Council welcomes the Government's view on the use of artificial grass and considers national policy should also be amended to restrict the use of artificial grass within development, only permitting its use in very limited circumstances such as on sports pitches. This is in recognition of the impacts that artificial grass has on wildlife, increasing levels of plastic pollution, its contribution to the urban heat island effect and potential to increase surface water run-off in developments, all in comparison to natural lawns and grassland

**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?**

The Council strongly supports the approach of giving greater consideration to the relative value of agricultural land for food production when deciding which sites are appropriate for development, particularly in light of food security and building resilience to future crisis and shocks. It is recognised with the need to provide land for nitrates/phosphate/BNG projects there are competing demands on agricultural land, consideration needs to be given to the returns to land owners as some of these mitigation initiatives maybe more attractive to land owners than producing food.

**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?**

For development proposals, current best practice (LETI et al) is to calculate carbon emissions from energy-use, using modelling using tools such as Passivhaus PHPP or CIBSE TM54 (for operational energy). This type of approach should be used for both planning and building regulations assessments of energy and carbon use in operation to reduce the need for multiple assessments (and because the SAP approach is known to be not fit for purpose for carbon assessment).

The forthcoming UK Net Zero Carbon Buildings Standard is aiming to provide an industry agreed approach for calculating embedded as well as operational carbon. Once developed it should be possible to adapt it into a simplified model to provide reasonable estimates for plan-making stage.

**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?**

The Council suggests that national policy could support climate change adaptation further by requiring both major and minor development to incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate. This is in recognition of the multi-functional benefits that SuDs provide and the cumulative difference/improvement that can be achieved if minor development also incorporated SuDs where possible in addition to the existing requirement on major development.

Furthermore, the requirement to incorporate SuDs within development (as stated in existing paragraph 171 in the NPPF) could also be strengthened to state that SuDs should be designed to be as natural as possible.

In addition, the Council also believes that national policy could include a requirement that in all cases surface water run-off rates from proposed development does not exceed existing run-off rates and for brownfield sites in particular, runoff rates are reduced where possible. This is in recognition of reducing flood risk and helping to reduce stormwater overflows water particularly in light of a changing climate.

Whilst existing paragraph 131 in the Framework refers to the important contribution that trees make to helping mitigation and adaptation to climate change, this could be further strengthened to include reference to helping to reduce the urban heat island effect in urban environments. This could also be extended to other habitats and forms of green infrastructure which also help to reduce the urban heat island effect. This is in recognition that with climate change, summers are expected to be hotter and drier further amplifying the urban heat island effect in our towns and cities.

The Council also considers national policy should support climate change mitigation further by including a requirement that all development should use sustainably sourced materials including promoting the use of recycled materials within development where possible. This is in order for development to help meet legally binding carbon reduction targets set by Government as well as protecting and enhancing the environment. New development should not use materials that contribute to deforestation or lead to environmental degradation and pollution.

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



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

(41-42) As far as they go, but notwithstanding references to future NPPF changes on this matter the continued lack of a NPPF section ( or even an basic statement) addressing how plans and development proposals should be helping to achieve net zero carbon is disappointing and inconsistent with national zero carbon commitments. National policy still enables development that will need major retrofitting to achieve zero carbon in operation.

Part C of para 155 (157 as amended) should more explicitly encourage renewable energy installation such as PV in new developments.

**43. Do you agree with the changes proposed to footnote 54 of the existing National Planning Policy Framework? Do you have any views on specific wording for new footnote 62?**

The Council is concerned that the amended wording focuses on the use of Supplementary Planning Documents, when these are set to be removed through the future provisions. National policy should focus on the need to evidence wind opportunities during Local Plan preparation through the preparation of a 'Renewable Energy Capacity Study' to inform plan policy.

**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?**

The Council agrees that significant weight should be given to the need to support energy efficiency and that this should be considered alongside the other considerations and policies within the Framework.

**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?**

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

(45 and 46) For plans reaching reg 19 stage in the period after the updated NPPF is published and up to the currently proposed June 2025 submission cut off point, authorities with emerging plans (including neighbourhood plans) should be given the option to proceed to examination under the current or the revised NPPF, confirming which with PINs when an inspector is arranged and a submission date for examination is agreed.

The adoption of plans examined under transitional arrangements by December 2026 is not supported and may have unintended consequences. For plans submitted close to the transitional arrangements cut-off date the date of plan adoption will depend in part on PINs resourcing, and on the extent of post examination modifications that may be required. It is unnecessary to specify an adoption deadline as it risks significant abortive work and cost if a deadline is missed for reasons outside of LPA control, which may deter authorities from progressing. If a deadline was fixed in regulations it could needlessly induce legal challenge risks and other tactics by plan opponents to delay plans in progress.

**47. Do you agree with the proposed timeline for preparing neighbourhood plans under the future system? If no, what alternative timeline would you propose?**

The Council agrees with the proposed timeline for preparing Neighbourhood Plans.

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

The Council notes the proposed new arrangements for Supplementary Plans. However, further clarity is required to understand the process of adopting Supplementary Plans.

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

The Council agrees in principle with the scope and principles for guiding National Development Management Policies where they relate to high level or 'generic' matters. For example, high level policies on amenity impacts, secured internal space standards, presumption in favour of sustainable development etc. are often very similar across most if not all Local Plans. It will be important that National Development Management Policies are clear to avoid ambiguities, so that policies are applied consistently across the country.

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

As referenced in the answer to question 49, the overriding principle should be the ability of the new NDMPs to avoid misinterpretation between LPAs.

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

The Council agrees that selective additions would complement existing national policies for guiding decisions but disagrees with those in relation to housing in town centres and built-up areas as these types of areas across the country are so diverse. It would be less controversial to produce 'default' national policies and to leave open to LPAs the option to vary them where warranted by local circumstances, which would need to be evidenced and would be scrutinised at examination stage.

**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?**

The Council considers that the following are examples of other issues which would apply to all or most of England and should be considered as possible options for National Development Management Policies: internal space standards, surface water drainage and flood risk, protection of heritage assets and policies to support delivering resilient and adaptation to climate change. In addition, in relation to question 56, measures to improve safety for women, girls and other vulnerable groups in society could be the consideration of a NDMP.

**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?**

The Council considers that there are some areas where additional planning policies could be included in a new framework to help achieve the twelve Levelling Up missions in the Levelling Up White Paper. For example, the Government could re-consider the role of and use of Permitted Development Rights particularly in town and city centres, as this has been a key driver behind the loss of employment space and retail units in city and town centres which impacts the prosperity of the UK's high streets and people's engagement in their local cultures and community. The Council also considers policies on specifying quantity standards for open space in a new framework would help achieve the levelling up objective of raising life expectancy, improving wellbeing and generally rising a sense of 'pride of place' through having development that has access to open space and nature.

**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?**

It would be helpful to include in the NPPF a high level positive strategy for growth. There should be a better alignment between the provision of homes (and other development) with sustainable opportunities to deliver growth in a manner that would help address the levelling up agenda. This includes making best use of associated major infrastructure spending commitments such as HS2. As a minimum it would be helpful to update the NPPG to specifically identify levelling up as one of the reasons to do more than the standard method starting point, where it is sustainable to do so.

**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?**

Any national policy would need to go further than just city and town centres. Abnormal costs, soundness deliverability tests and delivery lead in times may lead developers and councils alike to easier greenfield options in local plan allocation work. The Government needs to consider a range of national policies to increase delivery on brownfield sites including tax incentives and land ownership challenges, the planning system is only one of the policy tools available to deliver development on brownfield sites. A more beneficial fiscal regime could be introduced that would facilitate gentle densification on brownfield sites as advantageously as greenfield development, in terms of viability.

**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 Council would welcome any proposals which would lead to improved safety outcomes for vulnerable members of our communities. An emphasis on this in the future Framework would continue to highlight the difficulties encountered by these groups and any policies which would address these issues would seem to only be a positive. Safety for vulnerable groups could be addressed through the new National Development Management Policies.

**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?**

**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.**