



Association of Directors of  
Environment, Economy, Planning & Transport

## **Consultation response by ADEPT**

### **The Levelling-up and Regeneration Bill: reforms to national planning policy**

#### **February 2023**

This submission is made by the Association of Directors of Environment, Economy, Planning and Transport (ADEPT), in response to the DLUHC consultation document, 'The Levelling-Up and Regeneration Bill: reforms to national policy'. ADEPT represents directors of place from county, unitary and combined authorities, along with directors of Local Enterprise Partnerships, Sub-national Transport Boards and corporate partners drawn from key service sectors throughout England.

#### Introductory comments

ADEPT generally welcomes the proposed reforms to national planning policy in the National Planning Policy Framework (NPPF) as presented in the consultation, as a much anticipated and welcome opportunity for planners to engage in how government planning reforms intend to deliver levelling up in more detail. There is a wide range of local planning authority (LPA) differences nationally and as such, ADEPT welcomes this consultation and further/ongoing engagement opportunities to meet with us as a national forum, as further reforms are developed.

Whilst ADEPT supports many of the objectives and provisions that have been included within the current consultation, along with the first set of revisions proposed in Spring this year to the NPPF, we recognise that the proposed changes are only the first stage in expected reforms and therefore they do not provide the information required to understand fully how the wider changes to the planning system will work in practice. There are many consultations expected and there appears to be no corresponding update that has yet been referred to, to the national Planning Practice Guidance (PPG). This means that it is very difficult for anyone to understand how these changes will work together in practice.

Further to the currently proposed NPPF revisions, the future emerging Framework amendments referred to in the consultation and questions posed relating to future changes to reflect the new legislation that will come into force after the enactment of the Levelling Up and Regeneration Bill (LURB), it is important to raise the significant recruitment and retention challenges facing planning services in the public sector. Without addressing this issue, the ability of LPAs to implement any proposed reforms, whilst simultaneously delivering a quality planning service for our residents, will be compromised. Already, the lack of capacity to meet local plan making programmes and determination targets for planning applications is an ongoing issue that is frequently discussed at forums across the country. Despite plan making being a highly worthwhile and multi-faceted aspect of local government, and the exciting and positive planning projects that frequently come forward, the Government is already well-aware of how resources continue to be diminished within LPAs, by the movement of skilled planning officers with high levels of expertise and experience being attracted to the private

sector (usually by higher salaries and bonuses, and better terms and conditions than councils can offer). A long-promised consultation on resourcing planning is still awaited; in the meantime, the Department's responses to submissions such as ours would greatly benefit from further information on resources, skills and the positive promotion of planning to improve resilience in the sector in the short, medium and long term. ADEPT would welcome this, and other opportunities to continue to engage with government and to share learning from members and partners trying to tackle this issue individually, or as part of collaborative efforts across administrative areas.

In answer to the specific questions raised through the consultation, the following responses are provided:

### **Chapter 3 – Providing certainty through local and neighbourhood plans**

#### **Reforming the 5-year housing land supply (5YHLS)**

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

Yes.

ADEPT broadly agrees that local plans should not be tested within the first five years of adoption, as they are up to date. However, we consider the basis of the five-year housing land supply (5YHLS) is flawed. Local plans set housing requirements in their strategic policies for the whole plan period, usually looking at least 15 years ahead. This timescale provides certainty to communities, landowners and developers about what is being provided for in terms of site allocations over that period. Therefore, the housing requirement is not an annual figure, and while it is often annualised for monitoring purposes, there may be many reasons why this is inappropriate.

For example, a significant economic downturn affects housebuilding outputs; housebuilders and developers understandably reduce the number of completions when they are unable to sell new homes, due to reduced demand i.e. when there are fewer prospective purchasers with available finance and sufficient disposable income to secure a mortgage at higher interest rates. Renting new property may also become unaffordable for many, in the same circumstances of economic downturn, or even uncertainty over job prospects. At no point should a development plan be considered out of date and have the NPPF's 'presumption in favour of sustainable development' applied in these circumstances, when it is the economy that is failing, not the plan and its allocations/ their delivery. The sites identified in an adopted development plan are the right sites in the right places, extensively consulted on and tested at examination. Therefore, the answer cannot be to simply allow alternative sites to be advanced and gain benefit from significant weight to outweigh harm, as such sites incidentally would also be subject to the same economic circumstances.

Applying the 5YHLS at year 5, at the point that a plan is being reviewed, undermines the planned system, and causes significant issues in terms of community engagement, particularly if it

means a different, untested housing number is used which then encourages speculative development. The LPA should not have to default to the standard method figures at the five-year point if it has embarked on a plan review, and it should instead be protected while its review/ new plan is being prepared. The presumption in favour should not then apply until such time as the reviewed/ new plan has either been found unsound, or the LPA has failed to adhere to their agreed timetable.

Should the 5YHLS test remain, it is suggested that the following amendments are made:

- An LPA should not be required to demonstrate a 5YHLS at plan examination if delivery in the past has exceeded their housing requirement.
- Using the provisions of the LURB regarding commencement notices including delivery rates and completion dates, and powers to refuse planning permission if delivery rates are too low, there should be a requirement underlying the test that such commencement notices should contain increased delivery rates over and above those achieved in the past. Increases must be required, if housebuilding is to increase to over 300,000 dwellings a year nationally i.e. a test that simply projects the past forward will not be sufficient to increase housebuilding output. These timeframes for completion and delivery rates should be used in 5YHLS assessments without evaluation, regardless of whether delivery is on-track against them. The test ought to be about what is deliverable, not what will be delivered as an absolute, as authorities cannot control the delivery decisions of housebuilders. For allocated sites yet to be subject of planning permissions, assumptions should mirror comparable decisions with commencement notices that have expedient lead-in times and increased delivery rates.
- Where LPAs have used new LURB powers to issue completion notices revoking permissions or have refused planning permission due to a developer's poor record or their low delivery rates, authorities should not be penalised via the 5YHLS or the Housing Delivery Test (HDT). The PPG could address this through amendment.
- The planning system cannot reward or incentivise developers to fail. Developers with good records of promoting sites in accordance with the development plan and weighing up material considerations, achieving expedient delivery and improved delivery rates should continue to benefit from the tilted balance where applicable, where for example, an LPA has failed to prepare an up to date, sound plan. However, and in direct contrast, developers with poor records should not benefit from any tilted balance retained in national policy.
- The 5YHLS should contain a large sites' windfall allowance, based on past evidence. Large windfall sites that were not identified at the outset do come forward, are granted planning permission and are delivered within the first 5 years of a plan period. It is not possible to know at the outset what opportunities may arise in the next 5 years therefore it is appropriate to contain an allowance for large windfall sites, particularly in years 4 and 5 of the 5YHLS.

Q.2: Do you agree that buffers should not be required as part of 5YHLS calculations (this includes the 20% buffer as applied by the Housing Delivery Test)?

Yes.

Buffers should be removed, as they do not guarantee the increased delivery of new homes. Applying a buffer fails to recognise that despite some LPAs having a strong record of granting planning permissions for new dwellings, not all of those permissions, or other deliverable sites are built out. Delivery is outside of the control of LPAs. We recognise the importance of ensuring flexibility in the supply chain and councils ensure that there is a range of deliverable sites over the lifetime of the local plan; to this end, the vast majority of LPAs carefully manage the use of conditions and their discharge so as to facilitate implementation. Therefore overall, the 5YHLS test should relate to whether an LPA has a strong record of granting planning permission for sites that are in accordance with development plan policy, or where there are material considerations justifying permission otherwise.

Q.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?

Yes.

If the 5YHLS test remains, then oversupply should be considered/incorporated. The approach used should be consistent with the way any shortfall is treated, so that if undersupply is added, then oversupply should be taken away. Advice on this approach could be added to the PPG.

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

The current PPG sections that refer to past shortfalls and oversupply should be comprehensively revised (Paragraph: 031 Reference ID: 68-031-20190722 and Paragraph: 032 Reference ID: 68-032-20190722 respectively). It is important that consistent terminology (with the same meanings) is used throughout the revised NPPF and in the PPG: 'delivery' is not the same as 'supply'. 'Delivery' is development that has been completed, i.e. it effectively looks backwards; 'supply' is what is available and has planning permission therefore it looks forwards. There are many cases throughout this consultation where these terms are misleadingly used interchangeably which can be confusing. We recommend this error is addressed in all future announcements and publications, to ensure certainty, clarity and consistency.

The following PPG amendments are therefore suggested:

*The level of under delivery or over delivery will need to be calculated from the base date of the adopted plan and should be added to, or taken away from, the plan requirements for the next 5-year period. If a strategic policy-making authority wishes to deal with past under delivery over a longer period, then a case may be made as part of the plan-making and examination process rather than on a case-by-case basis on appeal.*

## **Boosting the status of Neighbourhood Plans**

Q.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?

Yes.

It is recognised that neighbourhood plans are part of the development plan and can play an important role in allocating sites; where this opportunity is taken, neighbourhood plans should be protected from speculative development, particularly because preparing a neighbourhood plan is resource-intensive, time is spent often on a voluntary basis and the entire process requires effort and commitment by the local community. In order to encourage local engagement, procedures for progressing and making a neighbourhood plan should not be any more complicated than they need to be.

Therefore, we support in principle the need to ensure neighbourhood plans are not undermined soon after they have been made. This must be contingent on them allocating sites to meet their full housing requirement and ensuring these sites are deliverable. The current period of only two years' protection undermines communities' confidence in neighbourhood plans. The proposed changes would give more weight to having a made neighbourhood plan, thereby placing more emphasis on the value of the plan making process.

However, there is a potential conflict if a local plan needs to be reviewed. The review process needs to be carefully managed to ensure that expectations about the lifespan of plans is set within the context of planning reform and the expectations of the new system that could render many neighbourhood plans no longer in conformity with upper tier development plans and their policies. This issue already exists but has the potential to become more difficult, especially as ultimately, some neighbourhood plan policies (as well as others in local plans) may be superseded by National Development Management Policies.

## **Chapter 4 – Planning for housing**

Q.6: Do you agree that the opening chapters of the Framework should be revised to be clearer about the importance of planning for the homes and other development our communities need?

Yes.

The objectives of positively planning for communities' needs, including their homes, jobs, local facilities and associated infrastructure are supported. However, we also consider that there should be a recognition of the part that planning plays in terms of tackling climate change as an overarching key theme. Our view is that the NPPF should explain the importance of planning new development, not only for our meeting communities' needs but creating development that will help meet the needs of future generations.

## Local housing need and the standard method

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

We support evidence-based policy making and agree that local authorities should be able to set local housing requirements that respond to local demographics, affordability pressures and constraints. However, ADEPT is concerned that there is still considerable uncertainty about the standard method, despite the proposed changes to recognise and reflect local constraints.

There is also a concern that the Government's target to deliver 300,000 homes annually may not be realised; further consideration therefore needs to be given to whether or not the standard method is in fact the right approach to delivering sufficient housing. The proposed changes will only exacerbate existing uncertainty and delays in plan making. More local authorities are likely to pause, and/ or halt the review of their existing/draft plans.

The NPPF would therefore benefit from a strong vision and a clearer policy on how to collectively achieve the national homes' target, even if it is revised downwards.

Further NPPF revisions might include:

- Support for authorities that have an up-to-date development plan and that want to positively embrace the new plan making system.
- Recognition and support for the principle of joint working, and joint plans to overcome cross-border issues and deliver a more sustainable distribution of development (a lack of joint working will work against responding to the climate emergency positively, and achieving sustainable development).
- Removal of the standard methodology in its entirety, or bringing it up to date, in part by ensuring it is based on the most recent and robust data from the 2021 Census. This would enable LPAs to plan for the actual future needs of their communities, by fully recognising and responding to changing demographics such as falling birth rates and an ageing population.
- The principle of 'brownfield first' has been long-recognised. The 35% urban uplift should be removed; it is an unjustified target and the percentage figure is not based on evidence, nor is meeting the uplift currently backed with any funding that would help ensure that the more challenging brownfield sites can be delivered and prioritised ahead of the identification and release of more green field sites for development. The removal of the uplift would also allow the cities concerned to identify more opportunities to mitigate and adapt for climate change, deliver government initiatives such as the Green Infrastructure Framework and fully implement the Local Nature Recovery Strategy (LNRS).
- Recognition that up-to-date evidence can be used to justify housing need.
- Additional emphasis being given to affordable housing need, above market housing, to ensure the delivery of more affordable housing.
- Fully recognising the climate emergency and supporting measures for responding to it.

Q.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?

Yes, in response to both questions.

ADEPT has concerns with the proposal to retain the standard method but if it is to be retained, further guidance is required, and exceptional circumstances should include referring to the latest demographic data and the use of longer-term trends.

In order to ensure that local plans are based on robust, up to date information, alternative methods to assess local housing need should be able to use the latest available ONS population and household projections data. This includes up to date information on population changes, structure, age group, migration patterns, travel to work data, household types and forecasts. It is the use of this evidence that provides opportunities to respond to exceptional circumstances and to develop a local approach to assessing local housing need. In addition, there should be scope for up-to-date economic forecasts to also be used, to understand local economic circumstances and opportunities and their implications in turn for housing need and the ensuing requirement.

Q.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?

The NPPF should explain the extent to which all of these matters may be taken into account. The consideration of Green Belt boundaries and densification are important matters alongside many other factors when allocating residential-led development sites. In considering potential site allocations, a wide range of factors is considered, including: the existing character and fabric of the local area; access to key infrastructure, including healthy food options and green space; along with opportunities to provide mitigation and adaptation to climate change. Taking this multi-faceted approach is especially important in sustainable and accessible locations around transport hubs where densities are encouraged to be maximised. The National Design Guide and National Model Design Code also assist where character of the local area is a matter of concern.

The NPPF already contains a strong policy steer both on supporting economic growth and increasing development on brownfield land, including the designation of appropriate density standards. The NPPF needs to expand further by considering the impact of proposals on the economy, affordability, infrastructure, town centre intensification etc. it would benefit greatly from objective criteria to develop the notion of gentle density, for example. There might also be opportunities for developments to be “infrastructure-led” to mitigate their impact prior to any potential impacts occurring.

ADEPT’s view is that past over supply ought to be taken into account.



Q.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?

Yes.

Some LPAs already provide a significant number of homes on brownfield land, with adopted policies and local plan site allocations, plus additional guidance for such schemes. LPAs already consider density as part of Strategic Housing Land Availability Assessments and the site selection process. In identifying and allocating land for development, there are wide-ranging considerations about the suitability of sites. Density and character are just two of the many factors taken into account, together with (for example) infrastructure needs and requirements, biodiversity net gain and resilience to climate change. Consideration is already given to individual site circumstances on a case-by-case basis.

Design codes may assist with gaining a better understanding of densities but given they would be examined as part of local plan making, they will not be adopted prior to the decisions about housing numbers. This approach to densities appears to be urban centric and not well thought out in relation to rural areas and villages. More guidance on exactly how this would work, and how development could be used to positively enhance an area is required.

Q.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, in principle (subject to further clarity).

Reducing the burden of evidence is supportable in principle and the removal of the justified test appears to help in this regard, although further clarity is needed on the potential for unintended consequences. Theoretically, removing this test could ensure a quicker and more proportionate examination process and a faster plan making process. However, without seeing all of the detail it is difficult to comment on the exact impact this change would have. It is suggested that plans should be considered sound when examined and the onus should be on objectors to demonstrate it is unsound.

More detail is required but the remaining tests adequately ensure that plans will still be based on robust evidence and options will still be considered through the plan making process. The ‘positively prepared’ test ensures that housing need is assessed using a clear and justified method; however, this still refers to the outdated standard method, as mentioned earlier in this response. Subject to ensuring that alternatives can use the most up to date population and household projection data available, the proposed wording will provide adequate assurances for plans to be based on robust evidence and tested on this basis.

It is also however noted that the ‘positively prepared’ test of soundness deletes references to working together to accommodate unmet need. It is unclear how this relates to paragraph 61 that continues to say that: *“...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.”*



We are concerned that this appears to reflect the proposed revocation of the Duty to Cooperate provision in law and signal a move away from proper provision and consideration of cross-boundary issues that are best assessed on a wider functional\_spatial level, so as to ensure sound strategic planning and policy interventions to deliver sustainable patterns of development. The lack of reference generally to strategic planning is disappointing; the proposed alignment policy will do little to address this ongoing omission. Cross-boundary cooperation in planning is also important for biodiversity planning, as wildlife does not have regard for local authority (LA) boundaries. Local Nature Recovery Strategies will also need to dovetail across boundaries.

Q.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?

Yes.

As set out in paragraph 225 of Annex 1, it is considered appropriate that plans which have reached the regulation 19 stage or beyond are tested against the existing 2021 tests of soundness.

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

Yes, a change should be made to remove the uplift altogether.

The delivery of previously developed land and prioritising this for development over greenfield sites continues to be supported but the apparent arbitrary urban uplift should be removed. Many urban areas have already demonstrated that there is insufficient land to meet all the identified need.

The urban uplift as part of the standard method should be considered in the round in association with the 5YHLS, deliverability test and the HDT, all of which demonstrate that the more challenging brownfield sites are not bought forward. The market should be encouraged to deliver brownfield allocations earlier in the plan period.

Q.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?

None.

ADEPT does not consider that further policy or guidance would support planning for more homes in urban areas. Fundamentally the issue is delivering the homes that are allocated through the accurate direction of significant funding streams and intervention to unlock and decontaminate sites, and to address unviability issues. Place making and climate resilience must be key objectives for development on previously developed land, as they must also be on more profitable greenfield sites.

The planning system should enable developments on previously developed land to deliver the equivalent high-quality schemes with the necessary infrastructure, affordable housing and climate change adaptation infrastructure. The marginal viability of brownfield site developments leads to compromises which effectively reduce investment in local infrastructure, and the quantum of affordable housing that can be provided.

Q.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?

The urban uplift should be removed.

The current proposal may undermine effective spatial plan making and lead to more situations where urban areas and their rural hinterlands fail to properly address cross-boundary growth and infrastructure planning.

Strategic planning needs to be required or encouraged, for authorities to appropriately plan across borders to achieve the best sustainable outcomes, to tackle climate change and help address the housing crisis. These outcomes require appropriate cross-boundary working; however, the details of the proposed alignment policy are not yet available and spatial development strategies are voluntary, so overall, there is not yet the confidence that wither/ both will necessarily lead to robust strategic planning and plan making.

#### **Enabling communities with plans already in the system to benefit from changes**

Q.16: Do you agree with the proposed 4-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?

Yes, if further to our response to question 1, the 5YHLS is to be reviewed then this is supported.

But ADEPT must raise a concern that this protection only applies if a plan is at Regulation 18 stage by the date of publication of the next revised NPPF (spring 2023) and the LPA has consulted on allocations to meet housing need. As currently worded, there is a gap affecting any plans that are currently up to date but that have reached the five-year point following the publication of this consultation and that have not already started a review. They are not protected. Given that there may also be further reviews and consultations, the approach proposed should be reviewed.

Q.17: Do you consider that the additional guidance on constraints should apply to plans continuing to be prepared under the transitional arrangements set out in the existing Framework paragraph 220?

Yes.

If taken forward, the additional guidance on constraints should apply to plans continuing to be prepared under the transitional arrangements.

### **Taking account of permissions granted in the Housing Delivery Test (HDT)**

Q.18: Do you support adding an additional permissions-based test that will ‘switch off’ the application of the presumption in favour of sustainable development where an authority can demonstrate sufficient permissions to meet its housing requirement?

Yes.

We are pleased to see it being recognised that there are problems with the presumption in favour of sustainable development and how it is applied. This issue relates directly to the HDT, how it is calculated and the consequences of its outcome. It is agreed there should be a test of the performance of an LPA that could centre on their granting of permissions and their plan making record. It would help to prevent the local authorities that are granting sufficient permissions from being exposed to speculative development, which can undermine a local community’s trust in a plan-led system.

Furthermore, it should be recognised that LPAs can normally only grant planning permission for applications that are submitted to that authority for determination and that those applications must be in accordance with policy, unless material considerations indicate otherwise, for the LPA to successfully contribute towards delivering sustainable development.

Q.19: Do you consider that the 115% ‘switch-off’ figure (required to turn off the presumption in favour of sustainable development Housing Delivery Test consequence) is appropriate?

No comment.

Q.20: Do you have views on a robust method for counting deliverable homes permitted for these purposes?

No comment.

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

No comment.

## **Chapter 5 – A planning system for communities**

### **More homes for social rent**

Q.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.

This revision is supported and welcomed, as more social rented housing is required to meet housing need.

In areas of high housing cost, affordable rents are unaffordable to many households in housing need and Registered Providers are increasingly rejecting potential tenants because they fail affordability tests.

As this is the most affordable tenure, greater weight and importance should be given to it. However, the NPPF revision also needs to recognise that it should be up to individual LPAs to determine what tenure best meets their own local need.

### **More older people's housing**

Q.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, in principle but a more nuanced approach needs to be taken.

This amendment is supported in principle, as there is clearly a need for suitable accommodation for the increasingly ageing population. However, we know that if there is a good supply of smaller scale, accessible accommodation this provides not only for natural churn and downsizing, but also for older people to stay in their own homes for longer. This means that policies that encourage a mix of housing sizes, types and tenures appropriate to the demographics of an area can play an important part of ensuring flexibility via movement and adaptability within the local housing market.

The Use Classes Order 1987 (as amended) does not distinguish older persons' housing from other C3 dwellinghouses. On many development sites, the default approach is to deliver C3 (residential); LPAs typically allocate a specific C2 (residential institutions, i.e. care homes) provision for the elderly on large mixed-use sites.

ADEPT would like to see housing for elderly people differentiated in policy and approached differently in decision making. Guidance could be included within the PPG to assist and ensure that the needs of older people are properly addressed in the Strategic Housing Market Needs Assessment and land availability assessment process, to identify sites that are suitable, available and achievable.

The tenure of new homes is also a critical point for serving specialist housing requirements, so that there are truly affordable options available within the market.

## **More small sites for small builders**

Q.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)? and

Q.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?

Yes.

It may be beneficial to address these matters through national policy, stating that allocations/proposals for larger residential-led sites should include the parcelling up of areas of land for Small Medium Enterprises to develop, to maximise the diversification of tenure and choices of new homes, and to help increase build out rates.

## **More community-led developments**

Q.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 alms-houses – to develop new affordable homes?

Yes.

The proposed change would assist community-led housing developers to deliver innovative schemes, without existing Registered Providers being involved.

Q.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?

Yes, potentially.

Although the greatest barrier to community groups wanting to bring forward affordable housing is land value, it is also challenging for them to secure the skills and experience they need, to deliver a community-led housing scheme within the standard time limits of a planning permission.

There is always the potential for a decision maker to grant a planning permission that would remain extant for a longer period of time where it relates to a community-led housing scheme (see s.91 of the Town and Country Planning Act 1990 (as amended) and the national PPG on the use of time limit conditions). The NPPF and/or PPG could each, or both, refer to this flexibility that already exists in planning law.

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

Yes.

Direct, or at least more convenient access to the necessary expertise and resources to support community groups to progress and then deliver their schemes could be very beneficial.

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

We have no further comment to add at this point.

Q.30: Do you agree in principle that an applicant's past behaviour should be taken into account into decision making? If yes, what past behaviour should be in scope?

Yes.

ADEPT supports changes which reflect the fact that it is not often within the control of an LPA if/when projects that have been granted planning permission are built out. Therefore, measures to remove liability from LPAs that grant planning permissions for proposals that are in accordance with the development plan, or where material considerations indicate that they should be determined otherwise, are welcome. Proposals to penalise applicants' past behaviour may however also not fully reflect how non-delivery can be as a result of a number of factors outside of an applicant's control (such as supply chain issues), although multiple incidents of under-delivery should hold more weight. It may also be appropriate to add scope to take into account any history of persistent unlawful development and enforcement action taken, breaches of conditions or not meeting S106 obligations. However, each of these potentially valid considerations would have additional resource implications and impact the ability of LPAs to provide high quality services.

Q.31: Of the 2 options above, what would be the most effective mechanism? Are there any alternative mechanisms?

We have no further comment to make on applicants' past irresponsible behaviour.

### **More build out**

Q.32 Do you agree that the 3 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?

Yes, with caveats.

Delivery rates are dependent on an exponential number of factors: LPAs rarely observe delivery rates that align with the local plan housing trajectory. This discrepancy causes issues for service providers, who are seeking to align the provision of infrastructure to the delivery of housing and increases the frustration of residents who expect to see infrastructure delivered to mitigate the impact of growth.

Measures to speed up delivery are welcome, and we would propose that these are considered comprehensively alongside revisions to the HDT and 5YHLS.

## Chapter 6 – Asking for beauty

### Ask for beauty

Q.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, with caveats.

It is agreed that place making means creating sustainable places with a vibrant mix of uses that are well-located and well-connected, in order to ensure sustainable patterns of development and increased opportunities for sustainable travel. The revised NPPF should therefore take the opportunity to put sustainability and the responding to the climate emergency right at the heart of the planning agenda. The priority for strategic policies should include ambitious environmental requirements in order to deliver sustainable development for achieving net biodiversity gain, environmental protection and enhancement.

It is also important to recognise that some forms of development do not require planning permission and in these circumstances, there is no control over the design of the development.

Therefore, whilst emphasising the role of beauty where LPAs can have a positive influence, permitted development can undermine this approach and in turn, impact harmfully on achieving 'beauty'. The Government will be well aware of the widespread concerns raised by the breadth of detrimental impacts of the expansion of permitted development rights for changes of use to residential. Those concerns include the poor quality of living conditions, amenity and internal spaces in the developments coming forward through this route there are, unfortunately, too many examples of permitted development falling considerably short of the Government's 'beauty' aspirations.

Whilst the MHCLG-funded 2020 research into the quality/standard of homes delivered through change of use permitted development rights raised significant concerns about the quality of development coming forward on a range of quality measures, we acknowledge that it did not find any substantive difference between the planning and prior approval regimes in relation to the exterior appearance of buildings.

However, with the continued expansion of permitted development rights and the passage of time, ADEPT would welcome the Government giving consideration to a follow-up review from the 2020 research and using a future consultation on the full review of the NPPF as an opportunity to seek views on 'righting the wrongs' the permitted development regime has had on the quality of residential development being achieved through that route and the quality of life of residents.

Q.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?



See previous response.

### **Refuse ugliness**

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

Yes.

ADEPT agrees that this would be helpful and clear references to approved drawings and other application submissions in conditions will help ensure the quality of approved development is not materially diminished between permission and completion.

### **Embracing gentle density**

Q.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.

This is not a relevant plan making issue and should not be included within the NPPF. This level of detail is inappropriate and contradicts the approach to design whereby design codes are to be used to ensure the most appropriate design response to each local area.

However, if it is decided that a reference to mansard roofs is required in policy, it should be included in the future National Development Management Policies.

## **Chapter 7 – Protecting the environment and tackling climate change**

### **Delivering biodiversity net gain and local nature recovery**

Q.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?

More could be done to ensure that adaptation measures are considered and applied more holistically, rather than looking at isolated issues such as artificial grass in the far wider contexts of achieving nature recovery and biodiversity net gain (BNG).

The revised NPPF should refer to the new national Green Space Factor (or the [Urban Greening Factor](#) in London) as a useful methodology that applies a holistic and locally distinctive process to ensure new development deals comprehensively with all elements of the site and its surroundings. The Green Space Factor is a tool that measures the amount of green (and blue) space created within a proposed development and assigns 'scores' based on the level of

adaptation benefit attributed to each surface type. With accompanying minimum standards, it is being introduced through incorporation into an updated National Model Design Code. Recognising and rewarding the level of climate adaption benefit attributed to each surface type, higher scores will be attributed to multi-functional green and blue surfaces that support biodiversity and habitats, which help to reduce the risk of overheating and effectively manage water run-off.

Clear guidance on BNG/biodiversity enhancement is required not only for major but also for minor applications, including their approaches to appropriate off-site BNG for development where it cannot be provided meaningfully on-site.

### **Recognising the food production value of farmland**

Q.38 Do you agree that this is the right approach to making sure that the food production value of high value farmland is adequately weighted in the planning process, in addition to current references in the Framework on best and most versatile agricultural land?

Yes, in principle.

It is agreed that protecting the best and most versatile agricultural land is an important part of contributing to ensuring future security in the production of food. However, the requirement of the change made to footnote 67 and its effect is not clear. There is policy and guidance already included within the NPPF and PPG to enable the consideration of the highest (BMV) value farmland in the planning process. Further information and clarification is needed to understand what will be required to show that the 'availability of agricultural land use for food production' has been 'considered.'

We do note that BMV agricultural land mapping is out of date and not available in detail, so it can be difficult to know whether land is grade 3a (BMV) or 3b (not BMV). While updating the mapping would be a resource-intensive piece of work, it should nonetheless be brought up to date nationally and provided as a consistent, shared data source on the Government's national map of planning data (National Map of Planning Data | Planning Data). This would enable applicants, developers and local authorities to understand exactly where the BMV i.e. most productive agricultural land (grades 1 to 3a) for food is, in comparison to other land in the area.

### **Climate change mitigation: exploring a form of carbon assessment**

Q.39: What method and actions could provide a proportionate and effective means of undertaking a carbon impact assessment that would incorporate all measurable carbon demand created from plan-making and planning decisions?

ADEPT welcomes the intention to go further in enshrining climate change mitigation into the planning process and encourages the Government to fully integrate this approach into the NPPF, PPG and all other policy and guidance documents. It is disappointing that the consultation (as well as existing guidance) still refer to the Net Zero Strategy that was found

unlawful on the basis that it was over-reliant on engineered carbon removal that has not been adequately justified.

More needs to be done to reduce consumer demand for high carbon activities and planning is a key part of this solution. The opportunity should be taken to ensure this is addressed needs to be taken.

In relation to plan making, we suggest that a carbon audit of a plan's spatial strategy and policies is required to ensure that the emissions associated with the quantity and location of new development have been fully assessed and understood.

For decision taking, it is suggested that a whole carbon life cycle assessment is required for all development proposals. Assessing embodied carbon should be part of the pre-app process and applying for and being granted planning permission. Any assessment should be benchmarked against the LETI Embodied Carbon Target Alignment to ensure a consistent framework for decision makers.

We support the fast tracking of the full Future Homes Standard and need for regulations to be updated to properly address renewable energy and energy saving in new homes, ensuring there are appropriate linkages with the planning system.

### **Climate adaptation and flood-risk management**

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

ADEPT welcomes the intention to go further in enshrining climate change adaptation into the planning process and encourages the Government to fully integrate this approach into the NPPF, PPG and all other policy documents.

Green Infrastructure Networks have an important role to play in our urban and rural environments for improving health and wellbeing, air quality, nature recovery and resilience to and mitigation of climate change, along with addressing issues of social inequality and environmental decline. The Green Infrastructure Framework is a commitment in the Government's 25 Year Environment Plan. It supports the greening of our towns and cities and connections with the surrounding landscape. Networks of green and blue spaces and other natural features can bring great benefits for nature and climate, health and prosperity. Green and blue infrastructure networks need to be carefully considered alongside other government policies, particularly those that aim to maximise development e.g. the urban uplift policy.

Local Nature Recovery Strategies offer the opportunity to provide a clear green and blue environmental context for local plan policy. Further guidance is required about how these documents can work together to deliver a variety of multi-functional benefits. It could also be useful to introduce a requirement to produce adaptation plans, or to align with upper tier adaptation plans, that aim to create resilient net zero places and that would provide a useful strategic framework for local plan policy.

As set out in our response to question 37, the Green Space Factor is a useful tool that applies a holistic and locally distinctive process to ensure new development deals comprehensively with all elements of a site and its surroundings. The Green Space Factor could be referred to in the NPPF as a useful tool to be applied in decision making and further guidance included within the PPG.

## **Chapter 8 – Onshore wind and energy efficiency**

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

Yes.

ADEPT welcomes the positive approach to future repowering and maintenance. It would be useful if more clarity is provided about what this means for the duration of planning permissions via time-limiting conditions in a decision-making context.

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

Yes.

ADEPT welcomes the positive approach to future repowering which has the potential to extend the lifespan of existing sites.

### **Introducing more flexibility to plan for new onshore wind deployment**

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

No.

The Climate Emergency is a long-standing issue that requires a more positive approach to the deployment of new onshore wind turbines. The energy crisis is only a recent issue that has brought the importance of not relying on fossil fuels into sharp focus. We note that onshore wind deployment has consistently been supported by over 70% of the population for many years, including in 2015 when the moratorium was introduced. Lifting this moratorium is long overdue.

The proposed minor change which is relegated to a footnote does not go far enough to adequately reflect the importance of this issue. The footnote number 54 referred to in the first question refers to DB32 so is presumably incorrect and it should be footnote 62 or 63. The wording should be further amended to remove the requirement to identify suitable areas, especially for community-led schemes. Any impacts of wind proposals can be appropriately assessed against the adopted policies of a plan without having to be identified in a suitable area. This is how windfall housing and other non-domestic development is dealt

with already and there is no reason why this should be any different. It is disappointing that this has not been removed from footnote 63 and new paragraph 160 (b). The slight change to include supplementary plans and to impacts having been “satisfactorily”, rather than fully addressed and provided community “support” rather than backing, are minimal and do not go far enough. There is no definition of what would constitute community support; it should be included in the glossary.

It is our view that the limited extent of the currently proposed changes will still lead to delay and uncertainty in bringing forward new wind turbine development.

### **Barriers to energy efficiency**

Q.44: Do you agree with our proposed new Paragraph 161 in the National Planning Policy Framework to give significant weight to proposals which allow the adaptation of existing buildings to improve their energy performance?

Yes, in principle although they are too limited in their coverage.

ADEPT supports the delivery of energy efficiency improvements for all buildings, but the planning system has little remit to control most of them. However, the NPPF should go much further and state categorically that where a planning application is required for any energy efficiency improvement, it should be approved, subject to the heritage considerations as set out.

It is not clear why there is a focus on large non-domestic buildings in this paragraph. One of the biggest barriers to energy efficiency improvements is the lack of incentive from government to retrofit existing buildings, especially dwellings.

## **Chapter 9 - Preparing for the new system of plan-making**

### **Giving time to finalise and adopt plans already in development before the reformed plan-making system is introduced**

Q.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?

No.

It is agreed that where plans have reached the regulation 18 or regulation 19 stages, they should continue under current policies and the plan making system, as they would need time and extensive resources to consider and reflect all of the implications of the changes and all the other emerging policy (the PPG, further NPPF amendments, National Development Management Policies).

However, it is noted that the time period between when this new NPPF is in place and the 25 June 2025 date is only around 24 months. It is potentially unfair to give LPAs such a short

timescale to produce their plans under the existing system, in view of all the uncertainty that exists. A two-year period is shorter than the timeframe for local plan adoption that is proposed in the new system, which is already meant to be a simpler and faster plan making process.

There is a danger that this short timescale confuses the public and undermines community engagement moving forward, especially if any newly adopted plan prepared under the existing system is then undermined by the introduction of new National Development Management Policies. This comment also applies to neighbourhood plans that likewise can continue to be submitted for examination up to 30 June 2025, despite the fact that an LPA could be progressing a local plan under the new system, one which will allocate sites. This is once again likely to cause confusion and undermine relationships and overall confidence in the transition to a new plan making system.

There should therefore be a choice to prepare under the new system or move to the new system and be protected in doing so. This would be a positive, resource-efficient way to move forward. It would be better in redirecting efforts and embracing the new system, getting prepared for a digital plan, and starting out on undertaking design codes and other necessary work in relation to the infrastructure delivery strategy plus environmental outcomes reporting.

### **Timeline for transitioning to the reformed plan-making system**

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

No.

It is considered that there is currently a gap in the proposals which means that plans that are currently considered to be up to date, are not protected if LPAs want to undertake a review and move to the new system. This potentially places many LPAs in a difficult position, with some plans currently falling between all the proposed transitional arrangements.

Given that work is yet to be completed on revising national policy, the number of still-awaited emerging consultations and the LURB not expected to be enacted until the end of 2023, the proposed transitional arrangements expose LPAs to a high degree of risk, for a range of reasons. Therefore the 30-month period should be exclusive of any delay in introducing the new system and it should be ensured that plans continue to be considered 'up to date' for decision making purposes, until a new plan is in place.

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

No.

There is likely to be confusion for neighbourhood plan groups and this will need careful management. There is already a conflict between the timing of neighbourhood plans and local

plans, and this is especially difficult when housing sites are proposed within an area. Further clarity is required.

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

No.

The consultation refers to LPAs no longer being able to prepare Supplementary Planning Documents (SPDs) in their current form and a time-bound period for existing SPDs to remain in use. However, it is ADEPT's view that SPDs associated with previous adopted local plans should only be time limited to the extent of however long it takes for a new style plan to be put in place. While it is hoped this will be 30 months, considerable uncertainty exists about this timescale, and much of the programme lies outside a LPAs control. It would be more appropriate to link the expiry of SPDs to the adoption of the new style local plan. This would address any issues of delay and remove the requirement for a specific time period to be included within the transitional arrangements.

It is unlikely that LPAs will have the resources to undertake preparing a local plan, supplementary plans, area-wide design codes, and the Infrastructure Delivery Schedule (as well as introduce/collect the national Infrastructure Levy) all simultaneously. The reality is that LPAs will only have the resources available at best to embark on a process of consecutive preparation. ADEPT is keenly aware that in either scenario, there is likely to be a considerably increased resource requirement on the Planning Inspectorate.

## **Chapter 10 – National Development Management Policies**

### **The scope of National Development Management Policies**

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

Yes, with caveats.

The proposals to bring forward National Development Management Policies are generally supported but it is important that the scope of these policies does not impinge on the ability of LPAs to create and adopt their own policies that are based on local circumstances. National Development Management Policies should be high level and overarching in their approach. There could be occasions where national policy would take precedence (for example where a plan is out of date) but local policies with local evidence which supports a deviation from national policy should be capable of being tested through the local plan making process.

Overall, national policies should save time at examination and allow local plans to focus on local issues and site allocations. Considerable time is wasted in local plan preparation processes and at examinations over the precise wording of policies on certain issues that really could be the same anywhere in the country (e.g. in relation to the historic and natural



environment). In addition, there are common issues that statutory consultees raise which could be usefully dealt with in these national policies.

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

See previous answer.

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

No comment.

Q.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?

We would propose (this list is not intended to be exhaustive):

- Natural environment
- Historic environment
- Climate change
- Public health and wellbeing
- Housing for older people

## **Chapter 11 – Enabling Levelling Up**

Q.53: What, if any, planning policies do you think could be included in a new Framework to help achieve the 12 levelling up missions in the Levelling Up White Paper?

No comment.

### **Levelling up and boosting economic growth**

Q.54: How do you think the Framework could better support development that will drive economic growth and productivity in every part of the country, in support of the levelling up agenda?

It would be considered helpful if policy amendments could be proposed in the short term to address the issues raised by permitted development and the impacts that prior approval has had on our city, town and local centres, and our high streets. These areas where communities choose to shop, work and spend leisure time are vitally important to support the sustainable way in which our places develop and in a post-pandemic world, the way in which all of our employment areas operate requires review.

The Skidmore Review: Mission Zero also offers a useful idea of the economic potential of an accelerated response to net zero. A national commitment through planning to ramping up

our response to the climate emergency will bring with it significant outcomes in terms of cheaper heating bills, better energy security, better health and wellbeing outcomes, better biodiversity, improved natural infrastructure networks, less pressure on the NHS and adult support services, and all of this can be achieved alongside economic development. A shift in funding and incentivisation will building retrofit act as a catalyst for sustained economic development, but the potential is evident. The planning system can provide support at a high level; there is also an opportunity to introduce a new permitted development regime that allows development to retrofit and decarbonise a building via a more permissive route than through the planning application/ determination process.

Q.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?

See previous responses, particularly to questions 1 and 7.

### **Levelling up and boosting pride in place**

Q.56: Do you think that the government should bring forward proposals to update the Framework as part of next year's wider review to place more emphasis on making sure that women, girls and other vulnerable groups feel safe in our public spaces, including for example policies on lighting/street lighting?

Yes, in that public spaces should feel safe for all.

It is recognised that Government policy, research and current funding initiatives are identifying ways in which we can tackle violence against women, girls and other groups in society, and that some of the solutions can be implemented through the planning process. We would welcome a change in the NPPF to reflect this work but would ask that the level of detail provided in the NPPF should be a high-level statement consistent with the key messages set out in the Framework. We support the Government's ambition to increase safety and the importance of working together to create places and spaces. There are opportunities around safer transport, improving and increasing street lighting, as well as identifying locations where there is a need to increase feelings of safety particularly at night. All of these measures are elements contributing to the quality of outdoor space for everyone; they are vitally important and relevant to communities as a whole, and not specific user groups.

The details about street lighting and other planning policy measures which could be implemented would be better-placed in the proposed National Development Management Policies, guidance on design codes or in their content, and within the details of site allocation or other locally distinct policies in local plans.

## Chapter 12 – Practical changes and next steps

Q.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?

Yes.

It would be helpful to have a full suite of proposed amendments as soon as reasonably practical, and an indicative timeline for completion in the meantime. A one-stop area for a digital web-based solution would also align with the digital planning agenda.

### **Public Sector Equality Duty**

Q.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.

It is considered that the proposals set out in the consultation are very wide-ranging and therefore the potential impacts on groups with protected characteristics could be significant. Unfortunately, in the absence of detail the precise impact of the proposals may only become apparent when further operational details emerge.

The move to greater digitisation within the planning system could potentially disadvantage older age groups and conversely, advantage younger people who historically tend to be underrepresented in public engagement. The proposed approach to digitisation could significantly impact on poorer communities who may have less access to technology, limiting or even removing opportunities to participate fully in the front-loaded, new style local plan consultations that are proposed.