

LOCAL PLAN SUB-COMMITTEE
11 September 2024
PART I

Government Consultation – Proposed reforms to the National Planning Policy Framework and other changes to the planning system.
(DCES)

1 Summary

This report provides an overview of the proposals contained within the Government's consultation on reforms to national planning policy and other changes to the planning system published on 30th July 2024 and seeks approval of the officer response to the consultation in Appendix 1 to this report.

2 Background

2.1 On 30th July 2024, the Government launched a consultation on planning policy reforms entitled 'Proposed reforms to the National Planning Policy Framework and other changes to the planning system'. The consultation runs until 24th September. The consultation document states that "*the Government will respond to this consultation and publish NPPF revisions before the end of the year, so that policy changes can take effect as soon as possible*".

2.2 This report summarises the proposed changes, considers the impact of the changes from the perspective of Three Rivers and includes an appendix setting out Officers' draft response to the consultation.

2.3 Chapter 1 of the consultation document summarises the changes that the Government propose to make to the NPPF and includes the following:

- Make the standard method for assessing housing needs mandatory, requiring local authorities to plan for the resulting housing need figure, planning for a lower figure only when they can demonstrate significant constraints and that they have exhausted all other options;
- Reverse other changes to the NPPF made in December 2023 which were detrimental to housing supply;
- Implement a new standard method and calculation to ensure local plans are ambitious enough to support the Government's manifesto commitment of 1.5 million new homes in this Parliament;
- Broaden the existing definition of brownfield land, set a strengthened expectation that applications on brownfield land will be approved and that plans should promote an uplift in density in urban areas;
- Identify grey belt land within the Green Belt, to be brought forward into the planning system through both plan and decision-making to meet development needs;
- Improve the operation of 'the presumption' in favour of sustainable development, to ensure it acts as an effective failsafe to support housing supply, by clarifying the circumstances in which it applies; and, introducing

new safeguards, to make clear that its application cannot justify poor quality development;

- Deliver affordable, well-designed homes, with new “golden rules” for land released in the Green Belt to ensure it delivers in the public interest;
- Make wider changes to ensure that local planning authorities are able to prioritise the types of affordable homes their communities need on all housing development and that the planning system supports a more diverse housebuilding sector;
- Support economic growth in key sectors, aligned with the Government’s industrial strategy and future local growth plans, including laboratories, gigafactories, datacentres, digital economies and freight and logistics – given their importance to our economic future;
- Deliver community needs to support society and the creation of healthy places; and
- Support clean energy and the environment, including through support for onshore wind and renewables

3 Proposed Changes

3.1 The consultation document splits the proposed changes to the NPPF and wider planning system into chapters. The proposed changes and relevant chapters are summarised below:

Chapter 3 – Planning for the homes we need

- 3.2 The consultation document and draft NPPF proposes the removal of reference to the Standard Method as being an ‘advisory starting point’ and removes reference to the exceptional circumstances in which the use of alternative approaches to assess housing need may be appropriate.
- 3.3 The consultation document sets out that all local planning authorities will need to demonstrate they have taken all possible steps, including optimising density, sharing need with neighbouring authorities, and reviewing Green Belt boundaries, before a lower housing requirement will be considered.
- 3.4 The consultation considers removing paragraph 62 of the NPPF relating to urban uplift.
- 3.5 Paragraph 130 of the current NPPF sets out that significant uplifts in housing density may be inappropriate if this would result in development wholly out of character with the existing area. The Government propose to delete this paragraph and strengthen expectations that plans should promote an uplift in density in urban areas.
- 3.6 With regards to reforming the presumption in favour of sustainable development, the Government propose to amend paragraph 11(d) clarifies that the reference to out of date policies relates to policies for the supply of land rather than any policy relevant to the determination of a planning application. The consultation text states that “the introduction of more demanding targets and reinstating the requirement to demonstrate a 5-year housing land supply at all times will bring more planning authorities into the scope of the presumption”.

- 3.7 In order to avoid creating poor quality places, the draft NPPF has been revised so that decision-makers consider locational and design policies, as well as policies relating to the delivery of affordable housing, when the presumption is engaged.
- 3.8 The consultation proposes re-establishing the requirement for all local planning authorities, regardless of local plan status, to continually demonstrate 5 years of specific, deliverable sites for housing. Additionally, the ability to take into account previous over-supply will be removed.
- 3.9 The consultation proposes re-introducing the 5% buffer to all 5-year housing land supply calculations in decision making and plan making. Where there has been a significant under delivery of housing over the previous three years, a 20% buffer is proposed.
- 3.10 The consultation also proposes to remove Annual Position Statements. The concept of an Annual Position Statement was introduced in the National Planning Policy Framework in July 2018. An Annual Position Statement is submitted to the Planning Inspectorate by a Local Planning Authority to confirm their housing land supply figure.
- 3.11 The consultation is also interested in views on maintaining effective co-operation and the move to strategic planning. The government is considering how to develop Development Strategies (SDSs). As part of this proposed shift towards strategic planning, the consultation sought views on whether tests of soundness should be amended to better assess the soundness of strategic scale plans or proposals.

Chapter 4 – A new Standard Method for assessing housing needs

- 3.12 The current method comprises a baseline of household projections (produced by the Office for National Statistics) which are then adjusted to take account of affordability. In some circumstances that figure is then capped to limit the increase, and finally an urban uplift (35%) is applied to our 20 most populous urban local planning authorities. It is designed to sum to 300,000 at a national level.
- 3.13 It is proposed to amend the calculation method as follows:
1. *Uses a baseline set at a percentage of existing housing stock levels*
 - 0.8% of existing housing stock in each local planning authority is the baseline starting point.
 2. *Adjusting for affordability*
 - This baseline is topped up by focusing on those areas that are facing the greatest affordability pressures, using a stronger affordability multiplier to increase this baseline in proportion to price pressures
 3. *Removes caps and additions.*
 - the new standard method does not have a cap applied to limit the level of increase for individual authorities
 - removes urban uplift
- 3.14 The new method for calculating housing numbers will result in the requirement of Three Rivers to deliver 739 dwellings per annum.

Chapter 5 – Brownfield, grey belt and the Green Belt

- 3.15 An overarching theme of the consultation is that development must look to brownfield first, prioritising the development of previously used land wherever possible.
- 3.16 The consultation sets out that where a local planning authority is unable to meet housing, commercial or other needs after fully considering all opportunities to make effective and efficient use of brownfield and wider opportunities, it should undertake a Green Belt review. This review should look to release poor quality grey belt land from the Green Belt through both plan-making and decision-making to meet local needs.
- 3.17 In order to make it easier to develop previously developed land, the Government propose to relax the restrictions that are currently applied to PDL and limited infilling in the Green Belt in paragraph 154g of the current NPPF. Additionally, the consultation seeks views on whether definition of PDL in the NPPF should also include hardstanding and glasshouses.
- 3.18 The term “grey belt” was defined. For the purposes of Plan-making and decision-making, grey belt is defined as “*land in the Green Belt comprising Previously Developed Land and any other parcels and/or areas of Green Belt land that make a limited contribution to the five Green Belt purposes (as defined in para 140 of this Framework) but excluding those areas or assets of particular importance listed in footnote 7 of this Framework (other than land designated as Green Belt)*”.
- 3.19 Additionally, the consultation set out a further proposed glossary addition for grey belt land;
- Land which makes a limited contribution to the Green Belt purposes will:*
- a) Not strongly perform against any Green Belt purpose; and*
 - b) Have at least one of the following features:*
 - i. Land containing substantial built development, or which is fully enclosed by built form*
 - ii. Land which makes no or very little contribution to preventing neighbouring towns from merging into one another*
 - iii. Land which is dominated by urban land uses, including physical developments*
 - iv. Land which contributes little to preserving the setting and special character of historic towns*
- 3.20 Much of this grey belt definition has been covered by our Green Belt review process as part of our evidence work for the emerging Local Plan. We have prioritised brownfield land in the Green Belt and areas that perform poorly against the Green Belt purposes as set out in the NPPF.
- 3.21 The consultation asked for views on the definition of grey belt, considerations for determining making a limited contribution to Green Belt purposes, how to prevent degradation of Green Belt land by landowners and the role that LNRS can play in enhancing Green Belt land.

- 3.22 The proposed changes will require local planning authorities to undertake a Green Belt review where there are exceptional circumstances, including when an authority cannot meet its identified housing, commercial or other need without altering Green Belt boundaries. In these circumstances authorities should review Green Belt boundaries and propose alterations to meet these needs in full, unless the review provides clear evidence that such alterations would fundamentally undermine the function of the Green Belt across the area of the plan as a whole. A sequential test to guide release is proposed.
- 3.23 The Council's current Green Belt Review does not consider the impact on the Green Belt as a whole. Rather, it took a more granular approach considering the harm of removing a particular parcel of land from the Green Belt for development. The harm rating was assigned based on that land parcel's performance in terms of Green Belt purposes and the impact removing the parcel from the Green Belt would have on neighbouring areas of Green Belt. It did not consider the impact on the Green Belt in the District as a whole.
- 3.24 Changes are also proposed to development on the Green Belt via the decision-making process. It is proposed that a new paragraph is added to the NPPF setting out that "in instances where a local planning authority cannot demonstrate a 5-year housing land supply or is delivering less than 75% against the Housing Delivery Test, or where there is unmet commercial or other need, development on the Green Belt will not be considered inappropriate when it is on sustainable 'grey belt' land, where golden rules for major development are satisfied, and where development would not fundamentally undermine the function of the Green Belt across the area of the plan as a whole".
- 3.25 The consultation asks for views on the release of grey belt land to meet commercial and other development needs including traveller sites through plan-making and decision-making, including the triggers for release.
- 3.26 The Government in its consultation has introduced 'golden rules' to ensure that major development on land released from the Green Belt benefits both communities and nature. Such golden rules would apply to major development released from the Green Belt through plan preparation or review, or on sites in the Green Belt permitted through development management. The golden rules (paragraph 155 of draft NPPF) include:
- a) *In the case of schemes involving the provision of housing, at least 50% affordable housing [with an appropriate proportion being Social Rent], subject to viability;*
 - b) *Necessary improvements to local or national infrastructure; and*
 - c) *The provision of new, or improvements to existing, green spaces that are accessible to the public. Where residential development is involved, the objective should be for new residents to be able to access good quality green spaces within a short walk of their home, whether through onsite provision or through access to offsite spaces.*
- 3.27 The Government is proposing a target of 50% affordable housing on land released from the Green Belt for residential development. Officers are concerned about the caveat 'subject to viability' as this will make achievement of the 50% target very unlikely.

3.28 The Government is considering different approaches to ensure the appropriate use of viability. Such approaches include:

a) Government sets benchmark land values to be used in viability assessments.

b) Government sets policy parameters so that where land transacts at a price above benchmark land value, policy requirements should be assumed to be viable. 6

c) Government sets out that where development proposals comply with benchmark land value requirements, and a viability negotiation to reduce policy delivery occurs, a late-stage review should be undertaken.

Chapter 6 – Delivering affordable, well-designed homes and places

3.29 The consultation document sets out that the government is not implementing the Infrastructure Levy as introduced in the Levelling-up and Regeneration Act 2023.

3.30 The Government proposes setting an expectation that housing needs assessments explicitly consider the needs of those requiring Social Rent and that authorities specify their expectations on Social Rent delivery as part of broader affordable housing policies is proposed (we have already done this through our LHNA). The prescriptive requirements relating to affordable home ownership products (including first homes) are also proposed to be removed.

3.31 In order to promote mixed tenure development, the Government is proposing to introduce a new policy that expects local planning authorities to take a positive approach to delivery of mixed-tenure sites through both plans and decisions. Again, this is an approach we are already taking.

3.32 With regards to majority affordable housing developments, the Government are seeking views on how to best promote high percentage social rent/affordable housing developments and any safeguards which may be required. They are also seeking views on the best approach for supporting affordable housing developments within rural areas.

3.33 Paragraph 63 of the current NPPF is proposed to be amended to include specific reference to “looked after children”. This particular paragraph of the NPPF sets out that the housing needs for different groups in the community should be assessed and reflected in planning policies.

3.34 The government is proposing to strengthen support for community-led development in national policy.

3.35 The consultation is seeking views on whether changes are needed to the definition of ‘affordable housing for rent’ in the Framework glossary to make it easier for organisations that are not Registered Providers, for example community-led developers and charities, to develop new affordable homes. This is intended to inform Government’s approach to National Development Management Policies.

3.36 The consultation seeks to gather views on why some authorities are unable to identify 10% small sites, welcoming views on measures to strengthen small site policy through the NPPF.

3.37 The Government propose to reverse the changes made in 2023 to the NPPF that reference beauty and beautiful in relation to well-designed development.

- 3.38 The Government is supportive of upward extensions. As such, they are proposing to make clear that national policy is strongly supportive of all upward extensions including mansard roofs (not solely mansard roofs). They are also proposing to amend current policy to ensure that a condition of simultaneous development should not be imposed on an application for multiple upward extensions of any type (rather than solely Mansard roofs) unless there is an exceptional justification. The Government are therefore consulting on amendments to paragraph 124(e).

Chapter 7 – Building Infrastructure to grow the economy

- 3.39 This chapter of the consultation document outlines how the proposed NPPF changes aim to help support investment and construction of key modernised industries to support economic growth. Key industries include:
- Laboratories
 - Gigafactories
 - Digital Infrastructure
 - Freight and Logistics

- 3.40 To support these industries, updates to paragraphs 86 and 87 are proposed.

- 3.41 The consultation document also queries the support for the prescription of data centres, gigafactories, and/or laboratories as types of business and commercial development which could be capable (on request) of being directed into the Nationally Significant Infrastructure Projects (NSIP) consenting regime.

Chapter 8 – Delivering community needs

- 3.42 The consultation document highlights that there is a pressing need to improve the provision and modernisation of key public services infrastructure such as hospitals and criminal justice facilities.

- 3.43 As such, it is proposed that paragraph 100 of the NPPF is revised to make clear that significant weight should be placed on the importance of facilitating new, expanded, or upgraded public service infrastructure when considering proposals for development.

- 3.44 Paragraph 99 of the NPPF is proposed to be revised to incorporate reference to post-16 and early years places to support the delivery of these types of education provision.

- 3.45 A “vision-led” approach to transport planning has been consulted on. This relates to designing transport and behavioural interventions focusing on the outcomes desired, and planning for achieving them rather than the current “predict and provide approach” where places are designed for worst case peak hour scenarios. Amendments are proposed to paragraphs 114 and 115 of the existing NPPF. To support the implementation of this policy, Government will publish updated guidance.

- 3.46 In order to promote healthy communities, the consultation seeks views on whether and how national policy could provide greater direction and clarity on the promotion of health through local plans and planning decisions.

Chapter 9 – Supporting green energy and the environment

- 3.47 The Government has committed to radically increasing onshore wind energy by 2030. On 8th July, the Chancellor announced that footnotes 58 and 59 to paragraph 164 of the existing NPPF, which placed additional tests on onshore wind schemes would no longer apply to decisions. The changes to promote the delivery of onshore wind projects to meet the target set to double generation from onshore wind by 2030.
- 3.48 The consultation also proposes that onshore wind is re-integrated into the NSIP regime.
- 3.49 In order to support renewable deployment, the consultation proposes amendments to existing paragraph 163 to direct decision makers to give significant weight to the benefits associated with renewable and low carbon energy generation, and proposals' contribution to meeting a net zero future.
- 3.50 Further amendments to paragraph 160 seek to set a stronger expectation that authorities proactively identify sites for renewable and low carbon development when producing plans, where it is likely that in allocating a site, it would help secure development.
- 3.51 The Planning Act 2008 determines the threshold at which solar and onshore wind projects are considered Nationally Significant Infrastructure. Government are proposing to:
- a) set the threshold at which onshore wind projects are determined as Nationally Significant at 100MW; and
 - b) increase the threshold at which solar projects are determined as Nationally Significant to 150MW
- 3.52 In order to tackle climate change the consultation seeks to gather further views on how climate change can be reflected in strengthened policy.
- 3.53 With regards to agricultural land part of footnote 63 is proposed to be removed, specifically "The availability of agricultural land used for food production should be considered, alongside other policies in this Framework, when deciding what sites are most appropriate for development".
- 3.54 Reference to AONB's have been replaced with National Landscapes throughout the document.
- 3.55 In order to support water resilience, the Government are considering how to provide water undertakers with greater certainty on the planning route for their new strategic water infrastructure. They consulted on amending the Planning Act 2008 to allow for certain water infrastructure projects to fall within the definition of NSIP.

Chapter 10 – Changes to local plan intervention criteria

- 3.56 The existing intervention powers, set out in Part 2 of the Planning and Compulsory Purchase Act 2004 ("the 2004 Act") were carried over from the Town and Country Planning Act 1990. The current legal provisions contain tests that apply in certain circumstances. If the policy criteria were to be withdrawn and not replaced, the consultation states that Ministers would approach any future decisions on intervention with substance, rigour, and an open mind, and in the context of relevant legal tests. Local planning authorities would also be given the opportunity to set out any exceptional circumstances that might be relevant.

- 3.57 The consultation considers an alternative approach which would involve revising the policy criteria. Under this scenario, proposed new policy criteria would apply in addition to the legal tests set out in the 2004 Act. Local planning authorities that fail to do what is required to get their plan in place, or keep it up to date, would be at risk of government intervention. A range of intervention options exist, from the issuing of plan-making directions through to the removal of plan-making powers, where the Secretary of State would arrange for a plan to be prepared in consultation with local people, and then brought into force. Decisions on intervention should have regard to:
- a.) local development needs
 - b.) sub regional, regional, and national development needs; or
 - c.) plan progress.

The Secretary of State will give planning authorities an opportunity to put forward any exceptional circumstances in relation to intervention action.

Chapter 11 – Changes to planning application fees and cost recovery for local authorities related to Nationally Significant Infrastructure Projects

- 3.58 According to the consultation document, current planning fee levels do not generate enough income to cover the full cost of some planning applications. It is estimated that there remains an overall funding shortfall for local planning authority development management services of £262 million. The Government wants to reduce this funding shortfall by ensuring that planning application fees cover the estimated costs to local planning authorities of determining those applications.
- 3.59 It is proposed that the fee for householder applications should be increased to meet cost recovery levels. It is estimated that to meet broad cost recovery levels, householder application fees should be increased to £528.
- 3.60 The Government are working with the Planning Advisory Service to collect evidence from local planning authorities on the cost of dealing with other types of applications. Views are sought on other application types through this consultation.
- 3.61 Views are also sought for applications where there is currently no charge including listed building consents, consent to undertake relevant demolition in a conservation area, and works to trees that are protected by a Tree Preservation Order.

Chapter 12 – The future of planning policy and plan making

- 3.62 Although the Government sets out that local authorities should continue to progress their plans without delay, they have set out transitional arrangements for emerging plans in preparation. Further discussion on the proposed transitional arrangements can be found at paragraph 4.8.
- 3.63 With regards to future plan-making reforms, it is Government's intention to implement the new plan-making system as set out in the Levelling-up and Regeneration Act from summer or autumn 2025. The consultation document sets out that plans submitted for examination under the existing 2004 Act system, should be submitted no later than December 2026.
- 3.64 With regards to future changes to the NPPF, the Government intends to explore the creation of a more accessible and interactive, web-based set of national policies

(including National Development Management Policies and national policies for plan-making).

Chapter 13 – Public sector Equality Duty

- 3.65 The Government is seeking views on any potential impacts of the proposed changes to NPPF and wider planning system on businesses, or of any differential impact on persons with a relevant protected characteristic as defined by the Equality Act 2010 compared to persons without that protected characteristic, together with any appropriate mitigation measures, which may assist in deciding final policy approaches.

4 Main Impacts for Three Rivers

- 4.1 The main impacts of the proposed changes (if they are implemented following the consultation) are as follows.
- 4.2 The new method for calculating housing numbers will result in the requirement of Three Rivers to deliver 739 dwellings a year.
- 4.3 In terms of the 5 year housing land supply calculation, with the reintroduced 5% buffer, Three Rivers will need to demonstrate a 5-year housing land supply of 776 dwellings per year. A 20% buffer would be applied where there has been significant under delivery of housing over the previous three years. Taking into account a 20% buffer, Three Rivers would need to demonstrate a 5-year housing land supply of 887 dwellings per year. This would further reduce our 5-year housing land supply figure until we have a new adopted plan in place.
- 4.4 The removal of paragraph 130 relating to character and density could result in developers significantly increasing densities across the District.
- 4.5 The proposed changes to the NPPF would likely mean that the Council would have to undertake a further Green Belt review or an update to its existing Green Belt review to consider what effect releasing land from the Green Belt may have on the function of the Green Belt across the area of the plan as a whole.
- 4.6 If our housing (and other) needs cannot be met in full we will have to review Green Belt boundaries and propose alterations to meet these needs in full, unless the review provides clear evidence that such alterations would fundamentally undermine the function of the Green Belt across the area of the plan as a whole. This would be undertaken using a sequential approach. The consultation sets out that plans should give first consideration to previously developed land in sustainable locations, then consider grey belt land in sustainable locations which is not already previously-developed, and only then consider other sustainable Green Belt locations. As such, if need can still not be met on previously developed land and grey belt locations, other more sustainable sites in the Green Belt (which may have a higher harm rating) may have to be considered.
- 4.7 Given the Government's vision of prioritising development on brownfield and grey belt land in the Green Belt, it is likely that more development will be constructed on brownfield and grey belt sites through the plan-making and decision-making processes respectively. Some of these sites may not be locationally sustainable.
- 4.8 The proposed transitional arrangements set out that;

those plans at examination will continue to be examined under the version of the NPPF they were submitted under (chapter 12, paragraph 5)

those plans that have reached Regulation 19 publication stage but not yet been submitted for examination one month after the revised framework is published, with a gap of no more than 200 dwellings per annum between the local planning authority's revised LHN figure and its proposed housing requirement (as set out in the Publication version of the plan), should also progress to examination under the version of the NPPF it has used when preparing the plan thus far (chapter 12, paragraph 6)

those with a more significant gap of over 200 dwellings per annum between the local planning authority's revised LHN figure and the emerging housing requirement will need to revise its plan in line with the revised NPPF before submitting the plan for examination no more than 18 months after the publication of the revised NPPF (chapter 12, paragraph 7)

all plans at earlier stages of preparation - (i.e. plans that have not yet reached Regulation 19 stage one month after the revised NPPF is published) - should be prepared against the revised version of the NPPF and progressed as quickly as possible

Officers Note: The Low Growth (Green Belt Constraint) approach is estimated to result in approximately 270 dwellings per annum over an 18 year plan period. The revised Standard Method Figure would require 739 dwellings per annum. As such, there is a "significant gap" of over 200 dwellings per annum between the local planning authority's revised LHN figure and the emerging housing requirement.

- 4.9 The consultation document sets out that "*the Government will respond to this consultation and publish NPPF revisions before the end of the year, so that policy changes can take effect as soon as possible*".
- 4.10 The potential increase in planning fees would be beneficial as it would help to cover the cost of running the development management (and enforcement) service.
- 4.11 The consultation document sets out that the Government will explore the most effective arrangements for developing Spatial Development Strategies (SDSs) outside of mayoral areas. SDSs will likely in effect replace joint strategic plans. Three Rivers is currently a member authority of the South-West Joint Strategic Plan (which is at an early stage of preparation). At this stage it is not clear what impact SDSs may have on the South-West Herts Joint Strategic Plan. When further detail has been provided by Government, Members will be informed.
- 4.12 The consultation document refers to future changes the NPPF including the creation of National Development Management Policies. Whilst such additional changes will be consulted on further, National Development Management Policies have the potential to impact Three Rivers

5 Policy/Budget Reference and Implications

- 5.1 The recommendations in this report are within the Council's agreed policy and budgets.

6 Financial, Legal, Equal Opportunities, Staffing, Environmental, Community Safety, Public Health, Customer Services Centre, Communications & Website, Risk Management and Health & Safety Implications

6.1 None specific.

7 Recommendation

7.1 That the Local Plan Sub-Committee note the contents of this report, and approve the draft officer response to the consultation in Appendix 1.

Report prepared by Aaron Roberts, Senior Planning Officer.

8 Background Papers

National Planning Policy Framework (2023)

Planning Practice Guidance (2024)

Proposed reforms to the National Planning Policy Framework and other changes to the planning system (2024)

National Planning Policy Framework: draft text for consultation (2024)

Planning and Compulsory Purchase Act 2004 (as amended by the Localism Act 2011)

APPENDICES

Appendix 1: Draft response to the Government's consultation on proposed reforms to the National Planning Policy Framework and other changes to the planning system.