

Planning Reform - Update

Community Planning Alliance

5th March 2024

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Planning Reform Day – 19th December 2023

“Today’s update to the National Planning Policy Framework (NPPF) addresses the concerns expressed by local elected representatives about weaknesses in the planning system which led to frustrations about the nature of development. It provides clearer protection for the Green Belt, clarity on how future housing supply should be assessed in plans, certainty on the responsibility of urban authorities to play their full part in meeting housing need and protections for the character of precious neighbourhoods, safeguarding the gentle density of suburbs and ensuring family homes are there for the next generation.”

[Written statements - Written questions, answers and statements - UK Parliament](#)



Michael Gove, Secretary of State Levelling Up, Housing and Communities
19th December 2023

The Roadmap to Planning Reform

- **Changes to current Planning System (national policy)** – published December 2023
 - [Levelling-up and Regeneration Bill: reforms to national planning policy - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/levelling-up-and-regeneration-bill-reforms-to-national-planning-policy)
 - [Government response to the Levelling-up and Regeneration Bill: reforms to national planning policy consultation - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/government-response-to-the-levelling-up-and-regeneration-bill-reforms-to-national-planning-policy-consultation)
- **Introduction of new (Levelling Up and Regeneration based) planning system**
 - Consultation on legal aspects of new plan-making system introduced through the LURA- July 2023
 - [Plan-making reforms: consultation on implementation - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/plan-making-reforms-consultation-on-implementation)
 - Long term Plan for Housing
 - [Long-term plan for housing - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/long-term-plan-for-housing)
 - Commencement of legal provisions of the 2023 LURA – ongoing throughout 2024
 - [Levelling-up and Regeneration Act 2023 \(legislation.gov.uk\)](https://www.legislation.gov.uk/ukpga/2023/11/section-1)
 - Further proposed changes currently being consulted upon re ‘brownfield first’ approach following review of London Plan by government advisers with councils expected to give significant weight to the benefits of delivering as many homes as possible, especially on brownfield land and the largest 20 towns and cities under new potential rules on housing delivery and the presumption in favour of development.
 - [Strengthening planning policy for brownfield development - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/strengthening-planning-policy-for-brownfield-development)
 - Consultation on proposed new planning framework (beyond those that were introduced via the LURA – expected first half of 2024.
- **Deadline for Local plans prepared under the current system** is submission for examination by 30th June 2025.

Changes to the current system/ proposals

Key changes/clarifications to the current Planning System

(1) **Emphasis on the plan-led system** through use of:

- more *carrots* including incentives through 5 year land supply requirements
 - no need to demonstrate 5YLS if LP is up to date and demonstrated land supply at end of examination
 - reduction to 4YLS for decision-making purposes where plan has reached Regulation 18 stage (with policy map and site allocations)

- More *sticks* (Ministerial Directions)
 - Spelthorne, Erewash and West Berkshire prevented from withdrawing plans from Examination
 - New directions announced in December to speed up some of the oldest LPs - Amber Valley, Ashfield, Basildon, Castle Point, Medway, St Albans, Uttlesford - [Local Plan intervention: Secretary of State letters to 7 local authorities - GOV.UK](https://www.gov.uk/government/news/local-plan-intervention-secretary-of-state-letters-to-7-local-authorities) (www.gov.uk)

BUT, other than producing timetables, it is not clear what interventions the Minister will use.

Key changes/clarifications to the current Planning System

(2) Clarification that the **standard method is an advisory starting point** (policy-off) in plan making for establishing the housing requirements for an area and that other national policies should be applied to provide a (policy-on) local plan target – set out in Paragraph 11 of the NPPF. Also clarification on what the ‘exceptional circumstances’ are that might allow an LPA from deviating from the SM as the starting point.

*“To determine the minimum number of homes needed, strategic policies should be informed by a local housing need assessment, conducted using the standard method in national planning guidance. **The outcome of the standard method is an advisory starting-point for establishing a housing requirement for the area.** There may be exceptional circumstances, including relating to the particular demographic characteristics of an area²⁵ which justify an alternative approach to assessing housing need; in which case the alternative approach should also reflect current and future demographic trends and market signals. In addition to the local housing need figure, any needs that cannot be met within neighbouring areas should also be taken into account in establishing the amount of housing to be planned for”. [Paragraph 61]*

BUT, some internal inconsistencies as LPAs still required under the ‘tests of soundness’ at examination to provide *“a strategy which, as a minimum, seeks to meet the area’s objectively assessed needs; and is informed by agreements with other authorities, so that unmet need from neighbouring areas is accommodated where it is practical to do so and is consistent with achieving sustainable development”* [Paragraph 35]

Key changes/clarifications to the Current Planning System

(3) Clear emphasis on urban areas

Urban uplift of 35% (on the standard methodology) applied to largest 20 urban centres in England (previously included in guidance but now elevated to national policy requirement).

*“The standard method incorporates an uplift which applies to certain cities and urban centres, as set out in national planning guidance. **This uplift should be accommodated within those cities and urban centres themselves** except where there are voluntary cross boundary redistribution agreements in place, or where it would conflict with the policies in this Framework” [Paragraph 62]*

BUT....

- Not clear how the proposed new ‘alignment test’ which will replace the Duty to Cooperate will work and LPAs will still have to demonstrate under the tests of soundness that the LP has been *“informed by agreements with other authorities, so that unmet need from neighbouring areas is accommodated where it is practical to do so and is consistent with achieving sustainable development”*.
- What happens when an urban area can’t meet its own needs, let along the 35% uplift after applying Paragraph 11 of the NPPF?
- What happens when an urban LPA can demonstrate that *“significant uplifts in the average density of residential development may be inappropriate if the resulting built form would be wholly out of character with the existing area. Such circumstances should be evidenced through an authority-wide design code which is adopted or will be adopted as part of the development plan.”* ? [Paragraph 130]
- Where does the unmet need go?

Key changes/clarifications to the Current Planning System

(4) More emphasis on protecting the Green Belt

Clarification that it is **up to the individual LPA to determine whether there are 'exceptional circumstances'** for changing GB boundaries – follows on from Guildford LP legal Challenge in December 2019.

New policy! **LPAs are not expected to review GB boundaries automatically** as part of LP preparation but can determine 'exceptional circumstances' and review where necessary

“Once established, there is no requirement for Green Belt boundaries to be reviewed or changed when plans are being prepared or updated. Authorities may choose to review and alter Green Belt boundaries where exceptional circumstances are fully evidenced and justified, in which case proposals for changes should be made only through the plan-making process.”
[Paragraph 145]

BUT....

In terms of the 'exceptional circumstances' test for altering Green Belt boundaries:

- This is a matter primarily for the decision-maker.
- The judicial emphasis is very much more on assessing the rationality of the judgment rather than providing a definition or criteria. The 'counsel of perfection' set out by Jay J in *Calverton* is not a checklist.
- the test is expressed in deliberately broad terms.
- exceptional circumstances do not connote 'rarity'.
- general planning needs, such as ordinary housing, are not precluded from its scope.
- 'exceptional circumstances' can be found in the accumulation of circumstances, not each of which has to itself be exceptional.

Source: Cornerstone Barristers

[Compton Parish Council & Ors v Guildford Borough Council & Anor \[2019\] EWHC 3242 \(Admin\) \(04 December 2019\) \(baillii.org\)](#)

The sting in the tail....

(5) Transitional arrangements are complicated and important!

“The policies in the original National Planning Policy Framework will apply for the purpose of examining plans, where those plans are submitted on or before 24 January 2019. Where such plans are withdrawn or otherwise do not proceed to become part of the development plan, the policies contained in this Framework will apply to any subsequent plan produced for the area concerned.” [Paragraph 227]

“The policies in this Framework (published on 19 December 2023) will apply for the purpose of examining plans, where those plans reach regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations 2012 (pre-submission) stage after 19 March 2024.” [Paragraph 230]



This means:

- LPAs that have not reached Reg 19/submission stage (by 19th March 2024) will not have to review GB - although they can still do so if they feel there are exceptional circumstances.
- LPAs that have reached Reg 19 /submission stage will still have to present evidence that they have reviewed GB to determine whether there are exceptional circumstances or not. If they choose to withdraw the Reg 19/submission plan, the LPA will still have to apply the previous NPPF i.e. they will be required to review the Green Belt.
- The only option for those LPAs that have reached Reg 19/submission stage is to review whether the exceptional circumstances case for releasing Green Belt has changed and they have the evidence to support this. Clarification around the application of the standard methodology may help!

Impact of updated NPPF on paused local plan examinations

25th January 2024

Mole Valley District Council agreed to continue with its draft plan, including Green Belt allocations due to concerns about affordable housing and speculative development applications. The plan (subject to Ministerial Direction to prevent it being withdrawn by the Council) was at the final stages of the Examination process and was likely to be found sound by the Inspector (subject to some Modifications).

14th February 2024

Solihull MBC wrote to the Inspector setting out 3 options – continue with the plan including Inspector’s proposed changes to make the plan ‘sound’ (and inevitably further GB allocations), withdraw the plan and start again, or carry on with the plan as proposed (even though the Inspector has indicated it to be unsound).

29th February 2024

Spelthorne Borough Council agreed to withdraw Green Belt allocations (apart from 2 x GTA/Travelling Showpeople) and sites subject to flood risk from the draft local plan which is currently at Examination and subject to Ministerial Direction to prevent the Council from withdrawing the plan.

The proposed new 'levelling up' system

The proposed new system

“The Levelling up and Regeneration Bill which is before Parliament will put the foundations in placeby creating a genuinely plan-led system with a stronger voice for communities. It will ensure greater provision of community infrastructure by developers, mandate that beautiful new development meets clear design standards that reflect community views, and enhance protections for our precious environmental and heritage assets.”

To be introduced through three main routes:

- The 2023 **Levelling Up & Regeneration Act** (Primary and Secondary Legislation)
Consultation on key proposals in July 2023 but did not include ‘policy’ content, including what will replace the Duty to Cooperate (revoked through the LURA) or any potential changes to the ‘tests of soundness’ used by Inspectors to examine local plans.
- Full **review of the NPPF** - consultation expected in May 2024 with full implementation end of 2024/25
- Introduction of new **National Development Management Policies** (NDMPs) - consultation expected in May 2024 with full implementation end of 2024/25

The proposed new system

- Local plans are expected to be vision-led/outcome focused with much more upfront and ongoing engagement expected in plan preparation process.
- Lots of new process with little detail yet as to how this will work e.g. Gateway Checks, Alignment Policy, Environmental Outcomes Report, Local Plan Commissioners
- Whatever the system, we need the right skills and capacity within local authorities and we have an urgent and ongoing crisis in relation to the planning profession (and other place-making skills).
- A key issue will be how the Government ensures the sum of the parts add up to deliver its target of 300,000 new homes a year, yet still no detail on the Duty to Cooperate's replacement 'policy alignment test'. This will be a key issue in the South East and West Midlands particularly....

The call for a return to effective strategic planning is getting louder...

Local Plan Expert Group's Report (2016)

[Local Plans Expert Group: report to the Secretary of State - GOV.UK \(www.gov.uk\)](#)

“local plans are rarely coordinated in time and, whilst the Duty to Cooperate may encourage joint working between pairs of authorities, it is not sufficient in itself to generate strategic planning across wider areas..... Apart from calls to revise SHMAs, the call to facilitate strategic planning was the most frequent point made by respondents to our consultation – respondents in both the public and private sector – who recognise that some issues of agreeing the distribution of housing needs may prove intractable without a wider plan.”

APPG Housing Supply and delivery Report (2023) [APPG-Housing-report-September-2023-Final-RGB.pdf \(appghousing.org.uk\)](#)

“A virtually cost-free policy lever, that can have immediate impact, is to undertake effective strategic planning. Critically, this must occur at the regional and subregional level to help effectively resolve the tensions between supplying homes in the South-East where the demand is primarily located and supporting the Government's Levelling Up agenda elsewhere. In the latter case, policymakers and planners need to be shrewd about key infrastructure investment, a critical determining factor in the demand for homes. Simply put we need to consider introducing frameworks around ‘the what, the where and the why’, ensuring that these key criteria are applied in coordination with overarching policy objectives, here specifically, Levelling Up. The more localised and devolved these strategies are, the more likely they are to deliver the right homes in the right places.”

The Raynsford Review (2020)

[The Raynsford Review of Planning - Town and Country Planning Association \(tcpa.org.uk\)](#)

“Such plans [strategic] may not be needed everywhere in England, but where they are prepared they must be placed on a formal footing, with a defined preparation process, an independent regional planning body, and clear and meaningful accountability and participation. What is clear is that the decision taken in 2010 to abolish regional plans and the organisational and intellectual capital they contained was a major mistake and has made the job of producing sustainable growth much more complex.”

Building the Future Commission Report on Planning (2023) [Building the Future Commission: Planning to solve the housing crisis | Building](#)

“Without a strategic planning tier, abolished in 2011, unmet housing need is not being picked up by neighbouring authorities, as there is no effective mechanism to force this to happen. The way to address these issues is by reinstating a strategic planning tier to take decisions on key strategic (or larger than local) planning issues such as housing numbers and green belt. In order to hit the ground running, this tier should be based on existing sub-regional institutions such as metro mayor-led combined authorities, unitary or county authorities, or combinations of them: no attempt should be made to reform the regional spatial strategies.”

UK2070 Commission 2020

[The UK2070 Commission – An Inquiry into Regional Inequalities](#)

“A National Spatial Plan for England is needed to contribute to the promotion of the UK's global role, to tackle inequalities and to link up sub-national spatial frameworks. It should set out explicit long-term funded priorities, and integrate multi-agency urban and rural programmes of action to meet future development needs sustainably. It will facilitate collaboration with the Scottish, Welsh and Northern Ireland governments. It will also provide a stronger context and confidence for the preparation of sub-national spatial strategies, especially for the combined authorities, the Northern Powerhouse, Midlands Engine and Great Western Gateway and, most importantly, the national context for developing strategic plans for the long-term development of London and the Wider South East.”

Report to the Government from the Energy Network's Commissioner (2023) [Accelerating electricity transmission network deployment: Electricity Networks Commissioner's recommendations - GOV.UK \(www.gov.uk\)](#)

The Energy National Policy Statements(NPS) are badly out of date and offer little guidance as to national engineering and environment priorities and trade-offs. There is no long-term spatial plan to demonstrate the position and need for a new line within the integrated system. There is no agreed and public guidance as to how, where, and why lines should be onshore or offshore, overhead or underground, lattice pylons or novel designs. There is no agreed and public guidance on how system design should balance different environmental benefits and costs and how to trade-off global, national, regional and local impacts.

British Property Federation (2023)

[BPF - BPF calls for return to strategic planning to create a more effective planning framework for freight and logistics](#)

Under the current system, strategic ‘larger than local’ logistics employment sites are simply not being planned for effectively as they rely on cooperation between authorities – with requirements for local authorities to work together through the planning system being less effective since the abolition of Regional Spatial Strategies in 2010. This has been to the detriment of the wider economy and has undermined international investment with strategic employment sites tending to attract nationally and internally mobile business activity, as well as specific growth centres.

Other contextual issues

“However, even if policymakers make the changes we have proposed [to the planning system], the market may still not deliver the quantity of homes, supporting a level of affordability, that policymakers find acceptable.”

Competitions and market Authority, February 2024
[Housebuilding market study final report - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/118444/housebuilding-market-study-final-report.pdf)

“Rates of building social housing are now far outstripped by rates of households seeking help as they are homeless or at risk of becoming homeless, with the numbers of people living in Temporary Accommodation (TA) at record highs. Concerns about the quality, safety and climate adaptability of our housing new and old, and its link to our health and wellbeing abound. At the same time, issues like rates of inflation driving up costs and interest rates increasing the costs of borrowing, and ongoing planning reforms, have meant that the last two years have been a time of continuing challenge and debate around housebuilding, particularly in relation to affordable housing.”

Local Authority Direct Provision of Housing, UCL, January 2024
[local authority direct provision of housing iv report.pdf \(ucl.ac.uk\)](https://www.ucl.ac.uk/central-services/real-estate/property-research/local-authority-direct-provision-of-housing-iv-report.pdf)

“In 1991 87% of new affordable homes were for social rent and 13% were for low-cost homeownership. Twenty years later that balance had reversed, with 87% of affordable housing supply being in tenures more directly linked to the market (mainly shared ownership and affordable rent) and only 13% being for social rent. Most social landlords are now cutting their own development plans, and many report that the future pipeline of homes built by private developers and sold to them under ‘Section 106’ planning deals is drying up. A recent survey showed that England’s largest developing social landlords plan to shrink their pipelines by an average of 22% in the coming years.”

Joseph Rowntree Foundation, February 2024
[Why are rates of housebuilding falling? | Joseph Rowntree Foundation \(jrf.org.uk\)](https://www.jrf.org.uk/news/why-are-rates-of-housebuilding-falling)

The social housing sector is facing a ‘perfect storm’ of pressures including: inflation, higher interest rates, net zero commitments, regulatory and policy-related pressures as well as credit quality and other structural issues in the market. The sector is at a crossroads, faced with the choice of investing in improving existing homes or building new ones.

Octopus Real Estate
[Closing the gap | Octopus Real Estate \(octopus-realestate.com\)](https://www.octopus-realestate.com/news/closing-the-gap)

Will 2024 give us a new government with a new approach to planning?

*“They are doing it [releasing Green Belt] in a haphazard and unplanned way in many cases and in a way that doesn’t meet housing need. We are going to get back to doing it strategically and will make sure that where it is released, through a variety of mechanisms, it targets local need. **We do not have mechanisms for doing it in a strategic way - we are going to bite the bullet on that.** We need to reintroduce elements of strategic planning.”*

*“There is a very weak duty to cooperate. In many parts of the country where there is not enough land to build, **the only way to get housing built is for councils to come together and work strategically.**”*



Shadow Housing & Planning Minister, Matthew Pennycook MP
Labour Party Conference, 9 October 2023

Thank you!

