

# Local Government Association response to the MHCLG consultation on the 'Draft revised National Planning Policy Framework'

10 May 2018



## About the Local Government Association (LGA)

The Local Government Association (LGA) is the national voice of local government. We work with councils to support, promote and improve local government.

We are a politically-led, cross party organisation which works on behalf of councils to ensure local government has a strong, credible voice with national government. We aim to influence and set the political agenda on the issues that matter to councils so they are able to deliver local solutions to national problems.

## Overview

The LGA welcomes the opportunity to respond to this [consultation](#) on the draft revised National Planning Policy Framework.

Planning is not a barrier to building. Councils are approving 9 in 10 planning applications and last year worked with developers<sup>1</sup> to permission over 350,000 homes, an 11 year high. In fact house builders currently have 423,000 homes with permission that they are still to build<sup>2</sup>. This is a positive base reflecting improving economic conditions following the recession.

Overall, the planning system is far from perfect and could better meet diverse needs of communities now and into the future. However it is important that any reforms focus on enabling councils and developers to achieve more for communities, and that they add value in enabling and ensuring good quality development and places in what are complex markets heavily determined by the performance of the wider economy.

There a number of changes to the draft revised NPPF and accompanying draft national planning practice guidance that are welcome and well-intentioned. However through discussions with councils, including at our consultation events, it has become clear that there are a number of key concerns shared by the sector.

These reflections can be summarised as:

- **Shifting accountability without enabling accountability, and in ways that penalise communities.** In essence the overall proposals: impose a house building target on communities; give councils no new levers to deliver that target, and; penalise communities should independent private developers not deliver sufficient units, by allowing the presumption of sustainable development. This is not a reasonable position and will likely have unintended consequences, including on impacting upon community support for development.

There are benefits to setting a standardised methodology, and for requiring

<sup>1</sup> [HBF Press release 2 May 2018](#)

<sup>2</sup> [LGA research February 2018](#)

# Submission

collective local action planning to understand and resolve issues. However the threat of presumption of sustainable development should be replaced with other more positive measures, such an offer for external expert advice on local action planning, and new accountabilities must be accompanied with tools to deliver.

- **National prescriptions rather than local planning.** While often well-intentioned in meeting a need identified nationally, the NPPF seeks to mandate policy in ways that will not be appropriate in many local housing markets. This includes proposed requirements for 10 per cent affordable home ownership on major sites, exception sites for development with 'entry level' products, and the requirement for 20 per cent percentage of allocated sites to be less than 0.5 hectares. Councils must retain flexibilities to plan for local need, and perhaps prescriptions could be replaced with measures that encourage councils to plan for priorities – such as allocating sites reflecting capacity of local SME builders – as part of the local planning process.
- **Confused definition of affordable housing that does not include social rent.** Affordable housing is required to comply with one or more definitions provided in the glossary. These definitions are unclear, overlapping, and there is no mention of social rent for which there is significant need in many markets. It is not sufficient to assume that social rent could be included within the definition of affordable rent, which is not affordable in many housing markets, without explicitly referencing it. Social rent must be included within a simpler definition of affordable housing.
- **Viability reforms that are unlikely to deliver their intentions.** Many of the proposals for reforming viability are welcome and well-intentioned, for instance increasing transparency, empowering policy requirements, and emphasis on pre-application. However proposals that require councils to develop site by site policy and while ensuring landowners and developers should both expect returns they might already achieve, alongside the 10% low cost home ownership requirements, risk maintaining a level of uncertainty allowing gaming that continues the challenge in securing investment in homes large elements of local communities can actually afford. It is extremely important that the Government properly test and understand what behaviours the proposals incentivise, and the impact of these on the policy ambitions.

We are also concerned at the degree to which the revised draft NPPF risks prioritising housing over other types of development, for example the retail and commercial offer. As it currently stands, we do not consider that the revised text strikes an appropriate balance in terms of protection of land for uses which may also be key priorities for local areas, other than housing. Further, we consider that a number of changes mean that the revised draft puts too much focus on numbers, rather than on plan-making involving communities, in order to create attractive, high quality and therefore sustainable places to live. This needs to be redressed in the final NPPF.

More generally, we are concerned about the cumulative impact of all the proposed changes if they were to be taken forward on overall capacity and resourcing for all local authorities, and expect a full new burdens assessment to be undertaken, in respect of any changes taken forward. We would also urge the government to bring forward the extra 20% increase in planning applications fees, which it consulted on in 'Planning for the right homes in the right places'. This needs to be applied universally to all local planning authorities. Alongside this, government should urgently work with councils to test a fair and transparent scheme of local fee setting.

We want to see an increased focus on encouraging the planning system and developers to work effectively in partnership to enable and deliver high quality development. There are many good examples of this in our recent 'Planning Positively through Partnership'<sup>3</sup> report.

## **Response to specific questions in the consultation**

### **Chapter 1: Introduction**

#### **Question 1: Do you have any comments on the text of Chapter 1**

It is of concern that an important sentence has been deleted from paragraph 1 in the current NPPF which is as follows: 'It sets out the Government's requirements for the planning system only to the extent that it is relevant, proportionate and necessary to do so.' This reinforces our concern in the key messages section above that overly prescriptive elements have been introduced into the draft NPPF that undermine the premise of a plan-led system. We would urge the government to reinstate this sentence in the final NPPF, and to fully consider whether all of the proposed changes meet this principle.

### **Chapter 2 Achieving sustainable development**

#### **Question 2: Do you agree with the changes to the sustainable development objectives and the presumption in favour of sustainable development**

We welcome the revised wording that emphasises that the three objectives (economic, social and environmental) are interdependent and need to be pursued in mutually supportive ways and the reference to taking opportunities to secure net gains across those objectives. However, it is not clear how net gains might be measured and from what baseline. This could perhaps be sensibly addressed in guidance.

#### **Question 3: Do you agree that the core principles section should be deleted, given its content has been retained and moved to other appropriate parts of the framework?**

No. The 'core planning principles' section set out early in the existing NPPF are felt to be important for setting the context for what the planning system is seeking to achieve and is a useful reference point for both plan-making and decision-taking. It should therefore be retained in the final NPPF.

#### **Question 4: Do you have any other comments on the text of Chapter 2, including the approach to providing additional certainty for neighbourhood plans in some circumstances?**

No

### **Chapter 3 Plan-making**

#### **Question 5: Do you agree with the further changes proposed to the tests of soundness, and to the other changes of policy in this chapter that have not already been consulted on?**

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<sup>3</sup> [LGA: 'Planning Positively through Partnership'](#)

We welcome the new plan-making framework which supports a two-stage process. This will allow local planning authorities to first work on the strategic elements of their plans, which can then be submitted for examination to the Planning Inspectorate and one found sound could be accorded weight in decision-making at an earlier stage than the current process. This should provide earlier certainty and clarity to councils, communities and developments. The additional work on detailed local policies for specific areas, neighbourhoods or types of development can then take place subsequently as appropriate.

We also support a number of the changes to the test of soundness which are intended to enable a more proportionate approach to evidence collection, which can be the most time consuming element of plan-making.

The LGA supports the principle of preparing statements of common ground. However, it is concerned about the potential complexity of the process, which will simply add another administrative burden on local authorities, without fundamentally addressing some of the challenges of strategic planning across boundaries. It is crucial that the ambitions for the statement of common ground are focused on supporting the duty to co-operate to work

The current tests of soundness already establish the principles that local plans should be based on: a strategy that meets needs (including unmet needs from neighbouring authorities, where it is reasonable to do so) and effective joint working on cross-boundary strategic priorities. It is considered that the need for statements of common ground are primarily procedural matters that do not need to be included in the NPPF and could instead be included in supporting guidance on the evidence likely to be needed to test the soundness of a plan.

#### **Question 6: Do you have any other comments on the text of Chapter 3?**

Councils around the country are responding positively to neighbourhood planning. Given the increased emphasis and expectation on the role of neighbourhood planning in the revised NPPF, the commitment for further funding to neighbourhood planning groups should be considered as part of a review of the local planning authority resourcing to meet their statutory duties. .

#### **Chapter 4 Decision-making**

#### **Question 7: The revised draft Framework expects all viability assessments to be made publicly available. Are there any circumstances where this would be problematic?**

The LGA supports this proposed approach. However, it is accepted that there could be very exceptional circumstances where this would be problematic and where specific information within an assessment should remain confidential. The text in the draft Planning Practice Guidance is helpful in that respect by stating that 'circumstances where it is deemed that specific details of an assessment should be redacted or withheld should be clearly set out to the satisfaction of the decision maker'.

#### **Question 8: Would it be helpful for national planning guidance to go further and set out the circumstances in which viability assessment to accompany planning applications would be acceptable?**

In principle yes, but should avoid being too prescriptive or turning into a 'tick-list' that enables applicants to continue to routinely submit viability appraisals in respect of site-specific proposals. Any additional guidance should be subject to further consultation.

**Question 9: What would be the benefits of going further and mandating the use of review mechanisms to capture increases in the value of a large or multi-phased development?**

The proposed draft guidance provides flexibility for councils to set out in plans when the use of review mechanisms may be required, and many councils are already using these, so it is not felt that there is a need to mandate. Mandating the use of review mechanisms could have unintended consequences. For example, in a situation where economic conditions are in decline, a mandated approach could result in a re-negotiation process on proposals, leading to fewer benefits being realised, rather than capturing additional benefits.

It would be helpful for guidance to make clear that where there are exceptional circumstances where policy requirements cannot be met – for example affordable housing contributions) – that developers will ordinarily, where required by a local planning authority, be subject to review mechanisms, for example through section 106 agreements.

**Question 10: Do you have any comments on the text of Chapter 4?**

The LGA has long been concerned that the viability process has allowed developers to avoid making sufficient contributions to the development of new affordable homes. Housebuilders are able to over-pay for land in the knowledge that they can push down affordable housing contributions on viability grounds.

We therefore welcome the increased emphasis on the importance of early engagement at pre-application stage, including for statutory planning consultees and reference in paragraph 42 to the importance of seeking to resolve requirements for infrastructure and affordable housing at pre-application stage. It is absolutely crucial that there is appropriate infrastructure funding available to support new development.

There are some interesting propositions across the chapter. For instance we welcome the reference in the draft planning guidance on viability that 'the price paid for land is not a relevant justification for failing to accord with relevant policies in the plan.' We would like to see this statement being given greater weight by including this wording within Paragraph 58 of the NPPF. We also welcome the clarification in the guidance that existing use value is not the price paid and should disregard hope value.

However we have some concerns about the proposals for reforming the viability process.

We support the principle of the government setting out at national level that viability should not usually need to be tested again for individual planning applications. However, in many councils areas across the country there will always exist specific sites which are not viable when taking all policy requirements into account. Similarly some sites will be able to provide considerably more than the policy requirements. Local Plan viability assessments are designed to demonstrate that the Plan can be delivered at a strategic level, will be set at a particular point in time and deal with generic sites and standardised assumptions.

We are concerned that the proposals requiring councils to undertake viability assessments on a site by site basis at plan-stage would be an expensive technical exercise for councils, requiring new burdens should the proposal be taken forward. As an example if policy requirements were set at a level whereby every site in plan were viable – including making a significant allowances for the most challenging sites, this would require a very conservative approach to be taken. Policies based on this level of viability would result in many sites contributing far less to affordable housing and infrastructure than they would actually be capable of. The converse would also apply where if viability assessments were designed to maximise the potential contributions from sites, this would result in a higher number of sites being unviable, resulting in higher numbers of requests to be exempted from policy requirements at application stage.

This concern is compounded by the expectation that calculations for determining viability risks will reduce the scope for affordable housing by ‘locking in’ existing and new costs that displace investment in affordable rented housing. In particular that landowners expected return on sale should be in line with what they would have expected, that developers should assume 20% of Gross Development Value return, and that 10% of units on all sites should be for local cost home ownership.

We would urge further testing of the proposals set out in the draft NPPG to fully understand what the proposal would achieve in the real world. The new proposals may have implications for the innovative approach taken by the London Plan for example. Although far from perfect, the current system allows a Local Plan policy to set a percentage affordable housing it wants to see and from which point negotiations can begin.

The LGA has long-argued for a clear, robust and transparent national viability system that helps to manage down the escalation of land values and ensure the delivery of affordable housing and infrastructure that communities need to back development. We are not convinced that the proposed changes will achieve that in practice.

In relation to paragraph 34 of the draft NPPF, the idea of identifying the required infrastructure for sites at the earliest stage is in principle a good one, but we are concerned that the way this is worded will mean all sites put in plans will have to have detailed infrastructure requirements and costs identified by the local planning authority, which would be very costly, almost impossible to achieve and risks holding up the delivery of plans.

The NPPF could be revised to make it clear that developers should be required to identify on site/mitigation infrastructure at promotion stage and take it into account in viability (including the assessment of land value) to demonstrate deliverability, and that broader strategic infrastructure costs should be identified with a clear understanding that it will only be partially funded by CIL (where CIL is in place), and that other funding sources will be required.

## **Chapter 5 Delivering a wide choice of high quality homes**

### **Question 11: What are your views on the most appropriate combination of policy requirements to ensure that a suitable proportion of land for homes comes forward as small or medium sized sites?**

Councils recognise the important role that small and medium sized housebuilders can play in increasing the private sector’s housing output and are already playing a

leading role in shaping and diversifying the market. This includes working in partnership with developers to provide land, to reduce development risk, to test new models, new construction techniques and new housing products, as well as advising on local opportunities. The LGA's Housing Commission report<sup>4</sup> includes a number of examples.

The proposed requirement for at least 20% of housing sites in local plans to be small sites (0.5 hectares or less) is considered to be too prescriptive. The identification of 20% of all sites in a local plan as small sites would require a significant amount of additional work for local planning authorities, and risks slowing down plan production.

Our recommendation would be that the revised NPPF could move away from the suggested prescriptive requirement to a more general one. For example, the requirement could be for local planning authorities to ensure that plans make provision for a range of sites to provide opportunities for small and medium sized builders.

If the detailed approach is to be included in the revised NPPF, it will need to take account of the additional work that is likely to be required, including additional site evaluations and Sustainability Appraisal work. It is also suggested that if a prescriptive requirement is taken forward that it relates to a wider site size range or range of housing unit numbers that may be attractive to small and medium-sized builders. Further research should be undertaken, if it is not available already, to identify what this range could be.

**Question 12: Do you agree with the application of the presumption in favour of sustainable development where delivery is below 75% of the housing required from 2020?**

No. The application of the presumption in favour of sustainable development when delivery of housing falls to 75% of the target rate is not a proportionate response to a situation that is out of the immediate control of a local planning authority. Under the proposed model we estimate that nationally more than half the Local Housing Need (calculated using the government's standard methodology) - around 165,000 homes, from 42% of councils - could be delivered through the presumption from 2020, therefore bypassing the wishes expressed by communities in developing local plans. We would welcome the opportunity to engage with government on our findings and methodology for this analysis.

House building is complex and risky involving a wide range of partners. Councils are committed to building homes where they are needed but do not have all the planning powers to actually ensure it happens once planning permission has been granted, but they, and the communities which they represent, will be penalised by the housing delivery test as it is currently proposed, for under-delivery. Developer behaviours are also complex, and subject to the wider economy – it is also unclear what will happen to housing markets post-Brexit. Therefore the leap to blame and interfere with the planning system in the way proposed will not resolve the underlying issues.

In general we support the principle of councils producing action plans in order to monitor delivery, identify any barriers and consider solutions – this is considered to be best practice, but is to some degree dependent on the level of resources available within the authority.

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<sup>4</sup> [LGA Housing Commission report](#)

However, given that councils are not able to control private sector delivery of housing, we urge the government to scrap the proposals that would introduce a presumption in favour of sustainable development for under-delivery from 2018.

We are also concerned that the proposals to introduce a presumption in favour of sustainable development risks unintended consequences including incentivising developers to stall building out, for example, sites allocated in plans, in order to force other 'more desirable' sites to be released for development.

Notwithstanding our view above, should the housing delivery test proposal be taken forward there will need to be a bedding-in period of at least 3 years before any consequences for under-delivery are considered, allowing time for a fair assessment of the degree of under-delivery.

As with all performance measures, it will be crucial to ensure the drive to meet the delivery test does not lead to unintended consequences. There is a risk that the emphasis on net additions could result in housing that doesn't meet local need, or that are not supported by the necessary infrastructure or access to services, which would undermine community confidence in the local plan-led system.

Before any consequences for under-delivery are applied to individual LPAs, those LPAs should be given an opportunity to provide clear evidence to justify corrections to any data errors and to set out any exceptional circumstances which would make application of the consequences unreasonable.

We are also concerned about the Housing Delivery Test being introduced in the revised NPPF ahead of the final Letwin report and consideration of the issues and recommendation included within it, which is essentially about the barriers to delivery of housing sites.

Finally, councils need additional powers to bring forward housing delivery, including streamlined compulsory purchase powers where sites have stalled or where they are not brought forward within a period of time agreed. There could also be a role for compulsory selling orders, where councils have powers to force landowners to sell land where it is not being brought forward for delivery within an agreed period of time.

**Question 13: Do you agree with the new policy on exception sites for entry-level homes?**

No. There is a risk that this proposal will undermine the effectiveness of a long established rural exceptions policy through raising the expectations of land owners and land prices through offering increased receipts from development of exception sites for entry-level homes suitable for first-time buyers (or those looking for their first home to rent). This risks undermining the delivery of truly affordable homes for those in genuine affordable housing need. Councils need to retain the flexibility to plan for the tenure of homes needed by local communities, in the locations they are needed.

**Question 14: Do you have any other comments on the text of Chapter 5?**

Yes. A number of comments are made in relation to several different issues in Chapter 5, detailed below.

Local Housing Need



As the standard methodology for assessing Local Housing need is a key element in the proposed NPPF revisions, it is considered appropriate to reiterate our concerns regarding the use of the standard methodology.

We outlined our concerns in our response to the 'Planning for the right homes in the right places consultation' but in summary our view is that is too simplistic to recognise the nuances of the different ways in which people live and work in different areas across the country. For example using the proposed methodology based on work-place based earnings risks distorting the actual need dependent on the degree to which there is a disparity between work-place and resident earnings.

Therefore many places face a new housing need number that is dramatically above their currently planned need, and may often seem undeliverable. Conversely other places with new numbers that are lower than were being planned for locally will have to contend with disrupted local partnerships and challenges that put could put at risk plans for economic growth and renewal.

On that basis, we consider that the proposed model should be optional for local planning authorities to use where it is considered to be appropriate for the housing market that they operate in.

We are particularly concerned that 72% of respondents to the Planning for the right homes in the right places consultation, did not agree with the proposed standard approach to assessing local need, yet it is still being take forward. We urge the government to reconsider this.

#### Glossary definition of 'Affordable housing'

We are concerned by the significant change in the definition of affordable housing in the glossary and in particular the removal of social rented housing from the definition. In our view this is unacceptable and it should be reinstated in the final NPPF. We are concerned about the emphasis on affordable home ownership rather than social rent and remain unconvinced that some of the tenures covered in the definition will provide housing for those in genuine need for affordable housing in many parts of the country.

We consider that if Starter Homes are included in the definition of affordable housing they should include provisions for homes to remain at a discounted price for future eligible households. Further, councils should have power to determine where Starter Homes and other types of affordable housing are built, as part of a locally determined mix of affordable homes to meet the needs of communities.

More generally, the new definition of affordable housing is confusing and include too many national products that will not work in many local areas.

#### 10% of homes on major sites for affordable home ownership

We do not agree with a minimum national requirement as it remains our view that LPAs, through their local plans, should determine any site size threshold and proportion of affordable home ownership units that are required on sites based on their objectively assessed need and taking into account site viability. The 10% target also risks displacing provision of genuinely affordable homes, for example social/affordable rented homes. There is also a risk that the affordable home ownership units provided will not be affordable for many as it doesn't address the key challenge for new home buyers, which is raising the deposit. We are concerned that in some housing market areas, the affordable home ownership houses will remain

unsold, and so will be reverted to market sale homes. It should not be for national policy to dictate local housing need in terms of tenure split.

#### Provision of affordable housing contributions that are not on major sites

We are disappointed that the revised NPPF incorporates the Written Ministerial Statement of November 2014.

Local circumstances in many parts of the country are sufficient to justify affordable housing thresholds in local plans on sites below 10 units (or 5 units for designated rural areas). Where LPAs have an affordable housing need, and viability assessment shows that the necessary affordable housing policies are viable, then they should not be restricted from putting such policies in place.

#### Permitted development rights

The government should also remove permitted development rights which allow the change of use from a number of different types to residential use. This has a number of unintended consequences including housing that does not meet local need, housing in unsustainable locations, reduced levels of affordable housing, reduction in availability of commercial premises in town centres and no contributions towards infrastructure. Permitted development rights undermine communities trust in the planning system and can put communities off actual new development. There are alarming numbers of net additions in housing units being created through permitted development rights – our analysis<sup>5</sup> earlier this year showed that since 2015, a total of 30,575 housing units in England have been converted from offices to flats alone, without having to go through the planning system. While this amounts to approximately 8 per cent of new homes nationally, in some parts of the country it is responsible for around two thirds of all new housing.

#### Glossary definition of ‘deliverable’

The revised definition of ‘deliverable’ sets an unfairly high test on local planning authorities for sites which do not have a detailed planning permission in place (including sites that have been allocated and subject to a separate examination through the plan-making process), requiring “clear evidence that housing completions **will** (our emphasis) begin on site within five years”. Placing the onus on local planning authorities to do this for each site is unreasonable, and in many cases impossible to do, as sites with outline planning permissions, will often be subject to ownership transactions and revised options for delivery before a final construction programme can be drawn up.

This change in definition would in effect mean, that only sites with detailed planning permissions could make up a five year supply picture, and risks local planning authorities being challenged on existing site allocations in local plans based on this new definition.

Our view is that the definition of ‘deliverable’ in the current NPPF is universally recognised and understood and should be reinstated in the final NPPF. Alternatively, the new definition could be changed to say completions are ‘capable’ of beginning within five years, to reflect that it is out of a local planning authorities control when development actually commences.

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<sup>5</sup> [LGA analysis on permitted development 2018](#)

## Over-delivery

The accompanying draft guidance suggests that where an area over-delivers against plan or local housing need requirements, that the oversupply can only be used to reduce the shortfall from previous years. The guidance should be amended to make clear that over-delivery can also be used to count towards reducing future years' requirements.

## The Principles of Garden Cities

The reference to Garden Cities which is included in paragraph 52 in the existing NPPF, has been removed from the equivalent paragraph (73) in the draft NPPF. It is considered that this reference is brought back in the final NPPF in order to try and ensure that future larger scale development is of a high quality.

## **Chapter 6 Building a strong, competitive economy**

### **Question 15: Do you agree with the policy changes on supporting business growth and productivity, including the approach to accommodating local business and community needs in rural areas?**

It is recognised that there will be cases where there are local business and community needs that need to be met outside of settlements in rural areas. These uses should be focused towards existing settlements or allocated sites unless there is a clear justification why a rural local is necessary and it can be demonstrated that preferable locations (in accordance with an up-to-date local plan) are not available or suitable.

### **Question 16: Do you have any other comments on the text of Chapter 6?**

Paragraph 82 states that 'significant weight should be placed on the need to support economic growth and productivity'. This it odds with the emphasis in Chapter 2 that the three objectives (economic, social and environmental) are interdependent and need to be pursued in mutually supportive ways. This paragraph should be amended to also recognise the importance of the social and environmental factors to economic prosperity.

## **Chapter 7 Ensuring the vitality of town centres**

### **Question 17: Do you agree with the policy changes on planning for identified retail needs and considering planning applications for town centre uses?**

Councils recognise the importance of their town and city centres and invest time and resource in ensuring they remain vibrant, particularly in the face of changing shopping habits, global trends and what attracts people to town centres. The responses required for managing change are necessarily complex, long-term in nature and will need to be different depending on the size and location of a place. Councils are also responsible for the economic and social well-being of all the places and communities they serve, including, but not restricted to, town centres. In addition, the interaction between town centre and the wider hinterland can be complex and unique from council to council.

Whilst councils will want to take a meaningful long term look at development needs setting a 10 year minimum for site allocation in town centres may be too constraining as it could be difficult to provide a reliable forecast of need that far in advance and

instead should follow the requirements as for housing needs.

**Question 18: Do you have any other comments on the text of Chapter 7?**

There are two areas of policy which could be improved to help councils maintain town centre vibrancy and overcome long-term decline.

- 1) Permitted development rights. The Government should remove permitted development rights that allow developers to convert offices into homes without planning permission. Many councils are being thwarted in their efforts to rebalancing the functions of their town centres – including employment, commercial, leisure, community, housing, healthcare and educational uses. Permitted developments rights are causing negative impacts through the loss of commercial space, affordable housing and local services and infrastructure which could benefit town centres.
- 2) Councils should have additional powers to determine the mix of town and city centre businesses to ensure ongoing sustainability, alignment with other policies and to prevent the clustering of specific businesses that may be harmful to public health and safety of local communities, such as fast food chains.

**Chapter 8: Promoting healthy and safe communities**

**Question 19: Do you have any comments on the new policies in Chapter 8 that have not already been consulted on?**

Councils will of course do what they can around building safe and cohesive communities but there needs to be sufficient flexibility to enable them to balance priorities to best meet local needs.

Paragraph 92 b) refers to ‘active and continual use of public areas’, but it is important to recognise that they may be valid crime and safety reasons why some areas are not in continual use (or limited use) and this should be considered according to local circumstances.

Paragraph 96 is about public safety and security. We would suggest that changing the wording to “anticipating and addressing reasonably foreseeable malicious threats and natural hazards...” would allow for a more proportionate approach by local planning authorities, than the current wording suggests.

On paragraph 96 b) it is not clear what is meant by ‘operational defence’ and clarity would be welcomed on this point in the final NPPF or in accompanying guidance.

**Question 20: Do you have any other comments on the text of Chapter 7?**

The LGA welcomes the new text that has been included at Paragraph 92 c) making clear that new development should enable and support healthy lifestyles and that the section makes a stronger reference to how health and wellbeing needs could be met.

The NPPF makes it clear that the planning system can play an important role in creating health, inclusive communities. For some years, a number of local authorities have been using their planning powers to restrict the growth of hot food takeaways near schools and in town centres. There are now over 50 councils which have development Supplementary Planning Documents covering hot food takeaways.

However, councils' planning powers can do nothing to address the clustering of fast food outlets that are already in place. Nor can planning decisions influence the quality or nutritional value of takeaway food. Planning professionals point out that the planning system is currently not designed to deal with the detail of how a business is operated, but rather with how land is used.

We consider that further research and perhaps legislative change may be required before an effective redesign of damaging food environments can be achieved.

## **Chapter 9: Promoting sustainable transport**

### **Question 21: Do you agree with the changes to the transport chapter that point to the way that all aspects of transport should be considered, both in planning for transport and assessing transport impacts?**

The changes to the structure of the transport section have improved its clarity and retain the key aspects of the policy.

### **Question 22: Do you agree with the policy change that recognises the importance of general aviation facilities?**

The draft NPPF states that planning policies should 'recognise the importance of maintaining a national network of general aviation facilities'. If this is carried forward in the final NPPF, local planning authorities will need to be provided with clear information on what the national network is, how it operates (both in terms of current capacity and capacity to meet future demand) and its social and economic value at a local and national level.

### **Question 23: Do you have any other comments on the text of Chapter 9?**

The LGA believes that the wording of the new requirement on parking in town centres is an improvement on the previous wording however it still displays a tendency to micromanage town centres and treat them in a uniform way. The issues that town centres face are complex, with different solutions for different areas, centralised solutions dictating parking provision will achieve little and it would be helpful if councils were given more freedom to find creative solutions that will be unique to their town centres.

Many councils make use of maximum parking standards and zero parking provision within new developments as a mechanism to ensure that new development does not overwhelm existing transport networks and that parking provision is protected for existing residents. If the new test only allows it to reflect increased car use on the network it may become more difficult to gain local support for developments.

On electric charging and future transport, the LGA supports the inclusion of improved guidance around charging infrastructure however this is a fast moving and nascent industry. It is not clear what the dominant model will be for low emission vehicles and it will be difficult for councils to plan accordingly. For instance it is not stated in the guidance what type of chargers should be provided. Whilst such centralised proscription would not be helpful the Government must recognise that at this stage there is only so much that can be achieved on charging infrastructure by planning conditions alone. Especially as there is no consensus on how charging infrastructure

will operate and what equipment will become the preferred type by the market.

## **Chapter 10: Supporting high quality communications**

### **Question 24: Do you have any comments on the text of Chapter 10?**

Councils need greater powers to encourage developers to connect new estates during the build phase, rather than expecting digital infrastructure suppliers to retrospectively fit properties after they have been sold. We have argued for local authorities to be given statutory backing to ensure digital infrastructure provision is linked to new housing developments. We do not believe the new NPPF wording as it stands will give councils the necessary backing to defend decisions to refuse developments based on poor connectivity plans. As an example, a recent planning appeal in Basingstoke found against the local planning authority following a refusal for a development based on its poor plans for connecting units with broadband. After being taken to appeal, the Inspector determined that broadband connections are a matter for prospective householders, and not a planning consideration - "I find that the provision of broadband and telecommunications would not be necessary to make the development acceptable in planning terms. I was not advised of a particular local deficiency in this regard which required specific remedy. In any event, such matters are best left to the prospective occupiers." The new NPPF does not strengthen councils' positions sufficiently to prevent an appeal like this succeeding again. It thus makes it impossible for councils to hold developers to account.

LGA-commissioned analysis by thinkbroadband estimates that only 32 per cent of properties built in rural England in 2017 are connected by FTTP broadband. Seventeen per cent of 2017 rural new builds are unable to achieve the Government's broadband universal service obligation minimum download speed of 10Mbps and upload speed of 1Mbps which it aims to deliver by 2020. This shows how important stronger wording in the NPPF will be to help councils encourage developers to connect up properties in good time, particularly in rural areas. The standard of digital connectivity we provide to our new build homes should reflect our national ambition to roll out world-class digital infrastructure across the country. Residents will no longer tolerate digital connectivity taking a backseat in developers' plans.

## **Chapter 11: Making effective use of land**

### **Question 25: Do you agree with the proposed approaches to under-utilised land, reallocating land for other uses and making it easier to convert land which is in existing use?**

We have a concern that with regards to paragraph 121, and in particular part (a), which relates to applications converting land which is in existing use but not allocated for a specific purpose in plans, where this would help meet identified development needs. There is a risk that there will be an unintended consequence of the proposed change that will result in the loss of important employment and retail land. It is considered that a stronger safeguards should be put in place to protect the loss of vital retail and employment land. The wording could be amended to refer to the fact that retail and employment land should only be lost if it can be demonstrated by robust evidence, that there is no demand for the existing use(s).

### **Question 26: Do you agree with the proposed approach to employing minimum density standards where there is a shortage of land for meeting identified housing needs?**

Local government recognises the importance of making efficient use of land and looks to deliver new housing at appropriate densities. How this is assessed and achieved should be for local planning authorities to determine within the context of individual schemes, and the appropriateness or otherwise of any density targets set should not be determined by the Planning Inspectorate through the examination process, particularly where a Local Planning Authority has demonstrated clearly how its objectively assessed need requirements will be met. Minimum densities should be set locally and have regard to the quality of life for residents and businesses.



**Question 27: Do you have any other comments on the text of Chapter 11?**

We have raised concerns regarding the impact that current permitted development rights have on local character through incremental, unplanned changes. The government should resist extending permitted development rights for building upwards to ensure that matters such as character, impacts on living conditions and impacts on local services, can properly be assessed and taken into account.

**Chapter 12: Achieving well-designed places**

**Question 28: Do you have any comments on the changes of policy in Chapter 12 that have not already been consulted on?**

No.

**Question 29: Do you have any other comments on the text of Chapter 12?**

We support a stronger emphasis of the importance of early pre-application discussions. Early collaboration, prior to submission of a planning application, helps shape better quality schemes and ensure improved outcomes for the community.

The principles for good design for local circumstances are important and so we have concerns with the wording in the revised NPPF (paragraph 129) that makes clear that design should not be used as a valid reason to object to development where it accords with clear expectations in local policies. Whilst the proposal has some merit, it may be difficult to operate in practice unless local design expectations were very prescriptive. The consideration of local character can vary significantly even within a small geographic area and there needs to be local discretion to take this into account in making decisions on planning applications.

The draft revised NPPF has removed key elements relating to quality of life (paragraph 9) and the 12 Core Planning Principles (paragraph 17) have also been removed. Earlier in our response we have proposed that the 12 Principles be reinstated in the final NPPF.

The change means that the draft revised document feels as if it driven by numbers, rather than genuinely being about creating attractive, high quality and therefore sustainable places to live. There is a strong focus at various points in the document that refers to delivery being about the efficient use of land, and gives an impression that the effect on people either in existing communities or in new proposed communities has been demoted from the current NPPF (where it currently does through upfront quality of life references and through the 12 Principles. This concern should be addressed in the final NPPF.

**Chapter 13: Protecting the Green Belt**

**Submission**

**Question 30: Do you agree with the proposed changes to enable greater use of brownfield land for housing in the Green Belt, and to provide for the other forms of development that are ‘not inappropriate’ in the Green Belt?**

Whilst we support the principle that where Green Belt is released first consideration should be given to land which has been previously developed or which is well-served by public transport, our view is that Green Belt reviews should be undertaken based on local evidence rather than a nationally prescribed sequence of assessment. This means that once the need to release Green Belt land has been identified, opportunities can be explored to create new sustainable and accessible communities, for instance also including opportunities to deliver improved transport access to employment sites or other services, as well as transport hubs.

Local evidence will also ensure that other considerations can be taken into account in considering the protection or compensation for loss of Green Belt. For example balancing the need for new development with protecting the best and most versatile agricultural land (as defined in the Agricultural Land Classification). This is important so that councillors and their communities have the flexibility to make the necessary trade-offs locally.

**Question 31: Do you have any other comments on the text of Chapter 13?**

Where brownfield land in the Green Belt is to be used for affordable housing, where there is no substantial harm to openness, local planning authorities, through their local plans, should determine any site size threshold, proportion and type of affordable home ownership units that are required on sites based on their objectively assessed need and taking into account site viability. It should not be for national policy to dictate local housing need in terms of tenure split.

**Chapter 14: Meeting the challenge of climate change, flooding and coastal change?**

**Question 32: Do you have any comments on the text of Chapter 14?**

We support clarification that planning applications for minor developments and changes of use in areas at risk of flooding are expected to meet the requirements for site-specific flood risk assessments, notably that development is flood resistant and resilient.

**Question 33: Does paragraph 149b need any further amendment to reflect the ambitions in the Clean Growth Strategy to reduce emissions from buildings?**

Paragraph 149b is clear that any local requirements for the sustainability of buildings should reflect the Government’s policy for national technical standards. This is set out in national practice guidance and allows a very limited range of national prescribed higher standards to be set locally, if they are justified by a local evidence base. This currently restricts local authorities for example, in setting higher targets for carbon emissions for new homes e.g. zero carbon homes, as they can only apply the current building regulations standards, which fall short of this.

It is positive that the Clean Growth Strategy sets out that it intends to reduce emissions by strengthening performance standards for both commercial buildings and



homes through Building Regulations and will consult on this once the current independent review of building regulations and fire safety has reported.

However, in the meantime councils should be given flexibility to apply higher standards for energy efficiency and other environment standards through the NPPF where the evidence bases suggests that this is needed to ensure that future development is sustainable and where this does not impact on viability of development.

### **Chapter 15: Conserving and enhancing the natural environment**

**Question 34: Do you agree with the approach to clarifying and strengthening protection for areas of particular environmental importance in the context of the 25 Year Environment Plan and national infrastructure requirements, including the level of protection for ancient woodland and aged or veteran trees?**

Agreed. The text recognises that there is a balance to be struck between protecting important environmental assets, whilst not restricting development in very limited circumstances where it would have significant public benefits and be in the public interest.

**Question 35: Do you have any other comments on the text of Chapter 15.**

The LGA welcomes the strengthening of the language on air quality and the inclusion of clean air zones within the new guidance. The LGA has called for local authorities with air quality problems to given greater power to reject proposals that will have a negative impact on air quality.

The new text removes original paragraph 113 which refers to “locally designated sites”. Some areas, particularly those outside Greenbelts, have specific local designations and there is now, no protection for these within the NPPF. Footnote 47 also refers to Circular 06/2005 which was [withdrawn](#) in 2014.

The Government’s new 25 year Environment Plan refers to planning and the NPPF but there is less alignment with the proposed new NPPF. This should be redressed in the final version of the NPPF. For example, the plan refers to Natural Capital and there is no definition of this (page 19 of the 25 year plan). There are also plans for a “Nature Recovery Network” (page 58 of the 25 year plan) yet this is not referenced in the NPPF in regard to new Local Plans mapping and encouraging such a Network.

### **Chapter 16: Conserving and enhancing the historic environment**

**Question 36: Do you have any comments on the text of Chapter 16?**

No. The approach is unchanged apart from some extra text to clarify the importance of World Heritage Sites other important amendments to improve clarity.

### **Chapter 17: Facilitating the sustainable use of minerals**

**Question 37: Do you have any comments on the changes of policy in Chapter 17, or on any other aspects of the text of this chapter?**

In relation to on-shore oil and gas development, including shale gas it is paramount that democratically-elected councils and their communities are at the centre of any decisions about fracking in their areas, and continue to be primarily responsible for these decisions. Through the locally-led planning system, councils can help to ensure entire communities are able to contribute their views relating to fracking applications in their area.

The LGA considers that fracking should not be dealt with as national infrastructure under the 2008 Planning Act.

Councils have a strong track record on processing planning applications. In the year ending September 2017, local planning authorities granted 95 per cent of all 'County matters' planning applications. 93 per cent of decisions on applications (approvals and refusals) were made within 13 weeks or 'agreed time' and 94 per cent were made within 16 weeks or 'agreed time' (for applications requiring Environmental Impact Assessments).<sup>6</sup>

Before they can consider granting planning permission for fracking applications, councils need to be assured that the issues covered by relevant regulatory regimes can, and will, be adequately addressed. This should include potential incidences of seismic activity and water pollution, the disposal of waste water, well construction and well integrity. This would ensure, for example, that in areas with particular stress on the water supply, a proper assessment is undertaken of the potential future impacts on water availability

**Question 38: Do you think that planning policy on minerals would be better contained in a separate document?**

No comment.

**Question 39: Do you have any views on the utility of national and sub-national guidelines on future aggregates provision?**

No.

### **Transitional arrangements and consequential changes**

**Question 40: Do you agree with the proposed transitional arrangements?**

The LGA is concerned about the inclusion and implementation of the Housing Delivery Test in national policy ahead of the recommendations and conclusions from the Letwin report.

We are concerned that the policies in the Framework should be taken into account for the purposes of decision-making from the day of its publication, particularly where they may result in a significant departure from policies in an up-to-date local plan. It is felt that a transitional period should be allowed to enable councils to make partial revisions or by preparing a new plan, so that they are not put at risk of having to process applications under the presumption in favour of sustainable development, because their policies no longer comply with the new NPPF. This could also include additional protection for plans that have been recently adopted prior to the new NPPF coming into force.

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<sup>6</sup> [DCLG Planning application statistics – Table 141 and 142](#)

The arrangement that any local plan submitted within six months of the final publication of the revised NPPF will not be required to take into account during the subsequent examination is welcomed. We would welcome a degree of flexibility and discretion for plans that fall just outside of the six month period.

**Question 41: Do you think that any changes should be made to the Planning Policy for Traveller Sites as a result of the proposed changes to the Framework set out in this document? If so, what changes should be made?**

No.

**Question 42: Do you think that any changes should be to the Planning Policy for Waste as a result of the proposed changes to the Framework set out in this document? If so, what changes should be made?**

Before waste enters the residual waste stream we should all be doing as much as possible to prevent it. This will need the co-operation of every part of the waste chain, including organisations that design and manufacture products and packaging that cannot currently be re-used or recycled.

There is no one size fits all solution to the disposal of residual waste and recycling. What works in a densely populated inner city will not be right for a more rural area. It is right that councils have local flexibility to develop a waste disposal strategy. Any changes to national policy would need to have a sufficiently long lead time, as council investment in waste disposal infrastructure is made on a 15-20 year timeframe.

### **Glossary**

**Question 43: Do you have any comments on the glossary?**

#### **'Deliverable'**

Commentary on the change in definition of 'deliverable' is outlined in Chapter 5.

#### **'Affordable housing'**

See response to Question 14.

Councils need to have flexibility to set in local policies the mix of housing tenures (including affordable housing) that are needed to meet objectively assessed need in their areas. This should include setting levels of discount for different types of affordable housing where appropriate, to ensure that they homes are affordable for local residents, taking into account local incomes and local house prices and of course development viability overall.