

Appendix 1 - Draft Response Tewkesbury Borough Council

Levelling Up and Regeneration Bill: Reforms to National Planning Policy Consultation December 2022.

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

Agree. This would incentivise plan-making and the change is welcomed, provided effective mechanisms are put in place to ensure timely plan-making (see response to other comments). It would also ensure staff and other resources can remain focused on decision-making and monitoring/reviewing plans rather than servicing planning appeals.

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

Agree that LPAs apply a buffer should no longer be applied within the 5-year housing land supply. The proposed reforms to monitoring housing delivery would simplify the system and can be welcomed as an incentive for local plans to be kept up to date.

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

Agree that any past oversupply of homes relative to annual requirements since the start of the plan period should be taken into account.

4, What should any planning guidance dealing with oversupply and undersupply say?

Clarity through clear and consistent guidance would be welcomed in relation to treating both undersupply and oversupply within a plan period.

5, Do you have any views about the potential changes to paragraph 14 of the existing Framework and increasing the protection given to neighbourhood plans?

The proposal to increase recognition of qualifying neighbourhood plans in instances where the local plan is out of date is supported.

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

Disagree. The proposed changes to the text in paragraph 1 of the tracked changed NPPF refers to 'sufficient homes'. Whilst this word is used throughout the NPPF, the ambiguous use of the word 'sufficient' may be open to increased scrutiny and examination when considered alongside the proposed changes to the standard method becoming advisory. It is also seemingly inconsistent with NPPF paragraph 60 which retains the reference to the Government's objectives of "significantly boosting" the supply of homes. The opening chapters should also provide more explicit acknowledgement of the importance of fostering economic growth.

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

Ambiguity and uncertainty in national planning policies around the requirements for plan-making will inevitably lead to protracted debate and objections and result in delays and increased costs in preparing and examining local plans.

8, Do you agree that policy and guidance should be clearer on what may constitute an exceptional circumstance for the use of an alternative approach for assessing local housing needs? Are there other issues we should consider alongside those set out above?

Agree that much clearer guidance would be needed to explain the evidence base requirements needed to justify adopting alternative methodologies to the standard method. The requirement for a local housing need assessment is proposed to remain in para 61 of the NPPF. Deriving a housing requirement locally will be dependent on consistent guidance and wording within national policy as well as clear evidence criteria of using an alternative approach. Without clarity and guidance this there is a risk of examination delays and defining approaches through case law. See also response to Q.10 below.

9, Do you agree that national policy should make clear that Green Belt does not need to be reviewed or altered when making plans, that building at densities significantly out of character with an existing area may be considered in assessing whether housing need can be met, and that past over-supply may be taken into account?

This question conflates three distinct issues.

Green Belt - *Disagree. As well as containing sensitive Green Belt land, Tewkesbury Borough is heavily constrained by AONB and areas of high flood risk which necessarily limits the realistic area of search for future housing and economic growth. In order to plan for its future housing and economic needs, options for development should be within the discretion of the local planning authority in consultation with its communities rather than, effectively, reviews of the Green Belt being vetoed as a matter of principle at the national level.*

Densities and housing needs – *See response to Q.10 below.*

Past over-supply – *See response to Q.3 above.*

10, Do you have views on what evidence local planning authorities should be expected to provide when making the case that need could only be met by building at densities significantly out of character with the existing area?

We understand that design codes will consider and set appropriate densities which reflect the design and character of the local area. Therefore, appropriate densities would need to be evidenced and agreed within a design code at the start of plan making. Paragraph 31 of the NPPF states that design codes will be as part of the Local Plan or an SPD and will be given weight in decision making. However, design codes would need to be in place to inform SHLAAs/housing trajectories and supply assessments to evidence if housing needs could/couldn't be met. Further clarification is sought on the role of design codes in setting densities to enable the assessment if housing needs can be met or not. We would also question how an examiner could feasibly consider sufficient detailed evidence relating to the character and capacity of wide geographic areas in the face of inevitable robust challenges from the development

sector and other parties. As drafted, the revised NPPF is vague and there is a real risk that this amendment would simply be another cause of costly delay in plan-making.

11, Do you agree with removing the explicit requirement for plans to be 'justified', on the basis of delivering a more proportionate approach to examination?

Disagree. Whilst all reasonable measures to simplify and expedite plan examinations is to be welcomed, there is a high risk that merely removing references to the requirement for plans to be justified will cause significant examination delay and uncertainty. Further guidance is needed on what evidence will be required at examination as throughout the NPPF there are retained references to the need for evidence and justification in plan making and decision-taking. In particular, for example, Paragraph 31 of the NPPF remains unchanged in stating: 'The preparation and review of all policies should be underpinned by relevant and up-to-date evidence. This should be adequate and proportionate, focused tightly on supporting and justifying the policies concerned, and take into account relevant market signals'.

12, Do you agree with our proposal to not apply revised tests of soundness to plans at more advanced stages of preparation? If no, which if any, plans should the revised tests apply to?

Disagree. Whilst clear dates for transitional arrangements for plan preparation are important, there is a concern that the June 2025 deadline for the submission of existing plans may be a disincentive for plan-making to proceed in the short-term, and potentially lead to a backlog/bottleneck in examinations at a later date.

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

Not directly applicable. The urban uplift does not have any direct implications for Tewkesbury Borough Council. However, the requirement for a 35% uplift in the largest 20 cities and towns would seem an unrealistic requirement given (1) the absence of a duty for neighbouring authorities to agree to accommodate unmet needs; and (2) the proposed revisions to the NPPF to clarify that standard method local housing needs are advisory rather than mandatory and related draft policies seek to respect the character of existing areas. In any event, the Borough Council would be concerned if a failure to implement the urban uplift policy resulted in consequential remedial uplifts in housing needs elsewhere, particularly where emerging plans may be at an advanced stage.

14, What, if any, additional policy or guidance could the department provide which would help support authorities plan for more homes in urban areas where the uplift applies?

See response to Q.13 above.

15, How, if at all, should neighbouring authorities consider the urban uplift applying, where part of those neighbouring authorities also functions as part of the wider economic, transport or housing market for the core town/city?

See response to 13 above.

16, Do you agree with the proposed 4-year rolling land supply requirement for emerging plans, where work is needed to revise the plan to take account of revised national policy on addressing constraints and reflecting any past over-supply?

Agree that a 4-year rolling land supply requirement should apply for emerging local plans. However, we would question the requirement that this should only apply to draft plans which are accompanied by a policies map and proposed housing allocations, as this may be a perverse incentive for authorities to undertake potentially abortive consultation simply to comply with the guidance. Whilst this is not likely to be applicable to Tewkesbury Borough Council given its ongoing joint plan-making work, it is suggested that the policy should apply to any plan which has commenced in line with an up to date LDS, and not simply those which meet the particular Regulation 18 criteria.

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

Agree but see response to Q. 10 and Q. 12 above.

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

The principle is supported. However, it is unclear if the deliverable permissions would need to have been permitted in the past 3 years. This is different to outstanding permissions whereby these could have been valid permissions over a number of years. The definition of “sufficient deliverable permissions” will need to be set out clearly in Annex 2: Glossary in the NPPF.

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

See response to Q. 18 above.

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

See response to Q. 18 above.

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

A pause in the release of the HDT in line with the timetable for reforms may be appropriate.

22, Do you agree that the government should revise national planning policy to attach more weight to Social Rent in planning policies and decisions? If yes, do you have any specific suggestions on the best mechanisms for doing this?,

Agree. This is supported. Tewkesbury Borough Council has an existing preference for 100% social rent in developer negotiations and attaching more weight to social rent in planning policy and decisions is welcomed.

23, Do you agree that we should amend existing paragraph 62 of the Framework to support the supply of specialist older people’s housing?,

Agree. The additional wording reinforcing the requirement to consider the needs of older people is welcomed. However, the proposed changes to paragraph 62 of the NPPF and the specific solutions listed such as care homes and retirement homes should left to be defined locally by Local Planning Authorities

as part of a Local Housing Needs Assessment. As drafted, whilst not being a closed list, the additional policy wording is limited in scope.

24, Do you have views on the effectiveness of the existing small sites policy in the National Planning Policy Framework (set out in paragraph 69 of the existing Framework)?

The contribution of small and medium sized enterprises is a very important part of the mix and diversity of local housing supply. Its recognition in the Prospectus is welcomed. However, it would seem that policies around financial incentives for SME builders, rather than planning guidance, would be the most effective way of supporting the sector. Equally, rural affordability is an important issue and the NPPF should reduce affordable housing thresholds to require provision on smaller sites across all rural areas.

25, How, if at all, do you think the policy could be strengthened to encourage greater use of small sites, especially those that will deliver high levels of affordable housing?,

See response to Q.24 above.

26, Should the definition of “affordable housing for rent” in the Framework glossary be amended to make it easier for organisations that are not Registered Providers – in particular, community-led developers and almshouses – to develop new affordable homes?,

The Council would agree that the definition could usefully be amended to include organisation that are not Registered Providers. However, it is doubtful that this would, in itself, increase the delivery of affordable housing.

27, Are there any changes that could be made to exception site policy that would make it easier for community groups to bring forward affordable housing?

Land acquisition and availability are key constraints. Government funding could also assist in enabling communities to bring exception sites forward, alongside guidance on best practice.

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

See response to Q.27 above

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

See response to 27 above.

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

Disagree. The practical application of such a policy would be fraught with difficulty in objectively assessing the character and suitability of individuals and companies. Attempts to implement such a policy are likely to create additional workloads for the local planning authority. Moreover, judgements about an applicant’s character are likely to be the subject of vigorous challenge in both appeals and the courts, resulting in considerable time and expense for applicants and local planning authorities. Rather than being framed around people’s “behaviour”, the Government should instead focus regulatory support and resources on the operation of a robust enforcement system as the means of addressing harmful breaches of planning control.

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

See response to Q.30 above – more clarity and guidance would be needed regardless of the mechanism.

32, Do you agree that the 3 build out policy measures that we propose to introduce through policy will help incentivise developers to build out more quickly? Do you have any comments on the design of these policy measures?

Disagree. The reforms being proposed in the Levelling Up and Regeneration Bill to require commencement notices, together with the proposed requirement for developers to report annually to local authorities on actual delivery of dwellings are welcomed. Although the additional measures now being proposed through the NPPF are noted, it is not entirely clear how publishing data on developers' failure to build out will meaningfully assist in assessing planning applications, other than achieving greater transparency. Similarly, the requirement on applicants to explain how they propose to maximise absorption rates risks introducing additional planning application validation paperwork, without a clear link to how this will assist delivery. Furthermore, the risk of refusal of planning permission for applications which propose a slow delivery rate may simply encourage applicants to submit unrealistic and over-optimistic trajectories.

33, Do you agree with making changes to emphasise the role of beauty and placemaking in strategic policies and to further encourage well-designed and beautiful development?

We disagree with ambiguous terms adding increased subjective judgement and complexity to the planning system. The word 'beauty' is subjective and open to interpretation. It is unclear how this is aligned to well-designed development and local design characteristics defined within design codes which are more prescriptive.

34, Do you agree to the proposed changes to the title of Chapter 12, existing paragraphs 84a and 124c to include the word 'beautiful' when referring to 'well-designed places', to further encourage well-designed and beautiful development?

Agree. However, see concerns raised regarding subjectivity in response to Q. 33 above.

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

Disagree. It is already common practice that relevant plans and diagrams are specified in planning conditions on the grant of planning permission.

36, Do you agree that a specific reference to mansard roofs in relation to upward extensions in Chapter 11, paragraph 122e of the existing framework is helpful in encouraging LPAs to consider these as a means of increasing densification/creation of new homes? If no, how else might we achieve this objective?

Disagree. Sympathetic (or "gentle") densification of built-up areas is supported but this already takes place in Tewkesbury Borough having regard to existing design and density planning policies. The Council is somewhat puzzled by the apparently arbitrary specific reference to mansard roofs.

37, How do you think national policy on small scale nature interventions could be strengthened? For example, in relation to the use of artificial grass by developers in new development?

Chapter 7 of the prospectus is supported, and we welcome the review the strategic objectives set out in planning policy to ensure that they support environmental targets under the Environment Act, net zero and the National Adaptation Programme. However, question 37 relates to a specific form of development and we have no comments on this question.

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

Agree. However, the proposed amendment to footnote 67 relates to deciding which sites are most appropriate for development. It should be clarified whether this applies to both plan-making and decision-making. Much clearer guidance is also required on what constitutes land "in use" for food production and how such considerations should be weighted.

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

It is recognised that, as set out in the Prospectus there are a range of options that could be pursued. However, given the significant resource/costs required, our principal concern is that clear and consistent guidance is issued in this respect.

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

We recognise that Planning Policy has a significant role to play in nature-based solutions to the effects of climate change. Gloucestershire councils already enjoy a high level of co-ordination in this regard. However, given the strategic nature of nature and green infrastructure networks, sustainable drainage etc, a stronger role for Government in terms of co-ordination and funding would be welcomed in the context of a clear national strategy.

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

Agree. The re-powering of existing infrastructure for renewable and low carbon energy is supported.

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

Agree. See response to Q.41 above.

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

Agree. The move away from the rigid requirement that wind energy developments should only be permissible in locations designated in the development plan is welcomed. However, the reference to

areas being identified in Supplementary Planning Documents is confusing given proposals set out elsewhere in the Prospectus that SPDs should be abolished.

The retained localist approach is also welcomed in principle but clearer guidance is needed on the definition of "local support".

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

Agree. The adaptation of existing buildings can be supported in principle, in particular in respect of large employment premises and public buildings. However, any such policy support should be clearly accompanied with safeguards for residential amenity (particularly in respect of noise) and heritage/conservation.

45, Do you agree with the proposed timeline for finalising local plans, minerals and waste plans and spatial development strategies being prepared under the current system? If no, what alternative timeline would you propose?

See response to Q.12 above.

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

See response to Q.12 above.

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

Subject to the drafting of the legislation, the proposed reforms to the timeline for preparing development plans does not appear to directly affect neighbourhood plans in a comparable same way as local plans.

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

Disagree. Whilst there is a clear logic for local planning authorities having the discretion to prepare Supplementary Plans, it is not clear why existing Supplementary Planning documents should expire at all, provided their contents remain consistent with the local plan and the NPPF/National Development Management Policies.

Furthermore, Supplementary Plans are, although intended as light touch, nonetheless be likely to require significant resources to prepare, examine and adopt. There would therefore be merit in also retaining the ability for local planning authorities to prepare some form of supplementary guidance as a material consideration supporting policies in the development plan.

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

Neither agree nor disagree at this stage until further details are known. Whilst there may be a role for standardised DM policies, the Council is concerned that they would enjoy equal status to democratically produced development plan policies, and seemingly could be introduced, revised or withdrawn without

consultation by the Secretary of State. This could be in ways which are not reflective of the circumstances of individual local authorities and undermine local plans.

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

See response to Q. 49 above.

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

See response to Q. 49 above.

52, Are there other issues which apply across all or most of England that you think should be considered as possible options for National Development Management Policies?

See response to Q.49 above.

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

Tewkesbury Borough is predominantly a rural area and hosts a diverse range of small settlements and communities with their own character and needs. It is concerning that even with the changes proposed in the Prospectus, both the NPPF and the associated priorities for Levelling Up would remain distinctly urban-focused. There are clear patterns of urban/rural inequality, solutions for which need to be explicitly acknowledged and addressed. In particular, rural areas often suffer from a lack of suitable housing which is appropriate to local needs in terms of size, type and affordability, including for older people wishing to remain in their villages in secure accommodation. Furthermore, rural areas lag well behind in the provision of transport, health, education, digital and other types of public and community infrastructure.

54, How do you think that the framework could better support development that will drive economic growth and productivity in every part of the country, in support of the Levelling Up agenda?

Relevant planning measures are considered to be addressed elsewhere in the NPPF.

55, Do you think that the government could go further in national policy, to increase development on brownfield land within city and town centres, with a view to facilitating gentle densification of our urban cores?

The Council strongly supports the Government's focus on prioritising the re-use of brownfield land in city and town centres and preventing unnecessary encroachment onto greenfield sites. The levelling up and regeneration agenda aimed at bringing sites back into active use is supported. However, further amendments to national planning policies are unlikely to materially assist further in effecting the regeneration of such sites. Policy aspirations will need to be supported by appropriate financial incentives for land remediation, infrastructure and compulsory purchase.

56, Do you think that the government should bring forward proposals to update the framework as part of next year's wider review to place more emphasis on making sure that women, girls and other

vulnerable groups in society feel safe in our public spaces, including for example policies on lighting/street lighting?

Any proposals resulting in greater safety for all are welcomed and we look forward to seeing further details. However, detailed design considerations, such as street lighting should properly be a matter for local design codes and decision-making on a case-by-case basis.

57, Are there any specific approaches or examples of best practice which you think we should consider to improve the way that national planning policy is presented and accessed?

It is helpful that most national planning policies are set out in a single framework. However, the PPG is difficult and confusing to access and navigate. It would be useful if it were published in word searchable pdf or similar format and kept up to date.

58, We continue to keep the impacts of these proposals under review and would be grateful for your comments on any potential impacts that might arise under the Public Sector Equality Duty as a result of the proposals in this document.

Noted.