

Appendix 1 City of Wolverhampton Council Response to Consultation on Reforms to National Planning Policy

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?

Yes. This would provide local authorities with a strong incentive to agree a local plan, giving communities more of a say on development and allowing more homes to be built.

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

Yes. This will provide a simpler and fairer system.

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

Yes. When preparing a Local Plan, the housing requirement covers the whole Plan period. The local authority does not have control over when development comes forward, and is currently penalised if development comes forward more quickly than expected. Over-delivery early in the Plan period should, instead, be rewarded through recognition of that oversupply when calculating the 5YHLS for the remaining Plan period.

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

When calculating the 5YHLS against housing requirements in an up-to-date Local Plan, the 5YHLS calculation should take into account the balance of housing supply against housing requirements since the start of the 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?

Support the proposal to increase protection given to Neighbourhood Plans, so that they are taken into account for 5 years rather than only 2 years, as this is in accordance with the 5 year period during which Local Plans can be taken into account.

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

Yes

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

They are unlikely to have a significant implication on plan making and housing supply.

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

Yes. It is crucial that national policy and guidance is as clear as possible about the acceptable approaches for assessing local housing needs, in order to minimise uncertainty and risk when Plan-making. These acceptable approaches should be consistent across the country as far as possible.

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?

Yes. We strongly support the proposed change to paragraph 142 (as revised) of the NPPF to include the sentence: "Green Belt boundaries are not required to be reviewed and altered if this would be the only means of meeting the objectively assessed need for housing over the plan period." This sentence is clear in its intent to give local authorities a choice regarding the review and alteration of green belt boundaries to meet objectively assessed need for housing. However, further clarity could be provided by adding the following qualification to the end of the sentence: "... other than the sources of housing set out in para 143".

We support the proposed changes to paragraph 11(b) of the NPPF to clarify that building at densities significantly out-of-character with an existing area would be considered an "adverse impact" when seeking to meet objectively assessed need, for Plan-making purposes.

We support the proposed changes to paragraph 11(b) of the NPPF regarding past over-delivery.

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?

Local planning authorities should be expected to provide evidence of the character of the area concerned e.g. local character studies.

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?

No. Paragraph 35(b) (existing) of the NPPF is essential to provide a balanced approach to the tests of soundness, particularly in terms of selection of an appropriate strategy and the requirement for proportionate evidence to support this. This should be the minimum standard for Plans to be judged against.

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

Yes

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

No. We do not support the proposed change to the NPPF to include references to the urban uplift, which could strengthen its application in the Plan-making process. We strongly recommend that the urban uplift is instead removed from the standard method altogether. There was no evidence underlying the introduction of the urban uplift in 2020, and there is no evidence that it is appropriate now. The uplift is disproportionately high, at 35%. This is particularly the case given that the existing housing need (without uplift) of the 20 largest urban areas is already considerable, and much of this already cannot practically be met within their boundaries. Making the proposed change will not alter this situation, which arises because of: (1) the lack of sufficient developable land; (2) the inability of the market to bring forward viable / deliverable housing sites; rather than any constraints imposed by the planning system. Notwithstanding the comments above, the proposed statement in para 62 (as revised) that: "This uplift should be accommodated within those cities and urban centres themselves unless it would conflict with the policies in this Framework and legal obligations" does not impose any additional responsibility on urban uplift authorities beyond that imposed on all authorities as set out in other parts of the NPPF. This should be clarified elsewhere in the NPPF or NPPG.

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

No additional policy or guidance is required, as any constraints which exist to delivery of further housing in urban uplift areas are related to viability and delivery rather than planning policy. It would, however, be considerably helpful if the government provided further, significant external funding to assist in bringing forward constrained sites in urban uplift authorities.

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

The urban uplift represents an arbitrary and significant increase in the housing requirement imposed on the 20 largest urban areas. There is no evidence that this uplift is appropriate, and it is particularly disproportionate in light of more up-to-date 2018-based household projections and emerging 2021 Census data. Therefore, if the uplift cannot be accommodated in the urban area concerned (which will almost always be the case), then there is no logical reason why the uplift should be exported to neighbouring areas either, and therefore it should fall away. Alternatively, if this approach is not supported, then the NPPF should provide a stronger expectation and mechanism for neighbouring areas to provide for it through cross-boundary working. This should be clarified in the NPPF or NPPG as appropriate. The standard method should also be updated immediately to reflect the most up-to-date household projections, in advance of the proposed review of Census data beyond 2024, as the 2014-based household projections are now considerably out-of-date and over-estimate likely future housing need.

16 Do you agree with the proposed 4-year rolling land supply requirement for emerging plans, where work is needed to revise the plan to take account of revised national policy on addressing constraints and reflecting any past over-supply? If no, what approach should be taken, if any?

Yes. This consultation is likely to result in many local authorities needing to delay Plan preparation timetables to reflect revised national policy on addressing constraints, therefore reducing the 5 year housing land supply requirement to 4 years for a temporary period is a reasonable response.

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

Yes

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

Yes. Where the local authority has granted sufficient permissions to meet its housing requirement the authority should not be held responsible for non-delivery of these permissions by land owners and developers.

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

No. The "switch-off" figure should be 100% or less. As it is proposed to remove buffers elsewhere in the housing land supply and housing delivery test calculations, it is not clear why a buffer should be applied to the "switch-off" mechanism.

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

Relevant local authorities should be responsible for evidencing the permissioning of sufficient deliverable homes through their annual published SHLAA and / or Authority Monitoring Report. It would be onerous for government to collect and publish individual data for each local authority on permissioning of housing in previous years.

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

The 2022 Housing Delivery Test consequences should be suspended pending publication of the 2023 HDT results.

22 Do you agree that the government should revise national planning policy to attach more weight to Social Rent in planning policies and decisions?

Yes. The majority of affordable housing need in all local authorities is for Social or Affordable Rent, rather than for affordable home ownership.

If yes, do you have any specific suggestions on the best mechanisms for doing this?

Removing the NPPF requirement for 10% affordable home ownership and allowing local authorities to specify the tenure of affordable housing secured in line with local needs, as was the case before the 10% requirement was introduced.

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

Yes. It is helpful to specify the different types of housing for older people which are required.

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

No. When planning permission is granted, this is for the land and buildings concerned, and is not linked to a particular person, body or organisation. This is an important principle of the planning system which avoids partiality and retains objectivity in the making of planning decisions. Therefore it is completely inappropriate to restrict a permission based only on the identity of the applicant. It would also be very difficult to prove that the applicant had engaged in specific behaviour previously, or the reasons for that specific behaviour, or that that behaviour was "inappropriate". Finally, if the local authority attempted to take past behaviour into account in decision-making it is highly likely that an alternative applicant identity would be used to avoid any sanctions.

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

Neither. When planning permission is granted, this is for the land and buildings concerned, and is not linked to a particular person, body or organisation. This is an important principle of the planning system which avoids partiality and retains objectivity in the making of planning decisions. Therefore it is completely inappropriate to restrict a permission based only on the identity of the applicant. It would also be very difficult to prove that the applicant had engaged in specific behaviour previously, or the reasons for that specific behaviour, or that that behaviour was "inappropriate". Finally, if the local authority attempted to take past behaviour into account in decision-making it is highly likely that an alternative applicant identity would be used to avoid any sanctions.

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?

No. It is difficult to see how measures (a) regarding publishing information on under-performing developers and (b) regarding asking developers to provide a diversity of tenures to speed delivery, would have any real effect on the behaviour of developers. Measure (c) regarding making delivery a material consideration in the NPPF, would only result in developers claiming an unrealistic delivery timeframe in order to secure a permission.

The proposed policy measures are designed based on the fallacy that it is a purpose of the planning system to ensure delivery of development, whereas the key purpose of the planning system is to ensure that planning permission is granted for

appropriate developments, in order to allow developers to bring forward development.

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?

Indifferent. The word "beautiful" is subjective and therefore the proposed wording changes will not materially affect how developments are considered in the planning process. "Well designed" is a more appropriate phrase, as good design is defined elsewhere in planning policy, guidance and caselaw.

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?

Indifferent. The word "beautiful" is subjective and therefore the proposed wording changes will not materially affect how developments are considered in the planning process. "Well designed" is a more appropriate phrase, as good design is defined elsewhere in planning policy, guidance and caselaw.

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

No. Local authorities are able to relate planning conditions to specific plans and drawings at present and should retain the discretion to do so as and when considered appropriate.

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

No

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?

Indifferent.

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?

Any carbon impact assessment requirement for either plan-making or planning decision processes would need to be simple, quick and cheap to apply, otherwise it would slow down both processes. Unless a clear national policy approach is also applied to the results of a carbon impact assessment it would also be purely a data-gathering exercise and therefore of limited value.

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 support the rapid implementation of proposals to introduce a comprehensive and well-funded system to implement and enforce sustainable drainage systems through development. We do not support the proposal to increase the scope and frequency of strategic flood risk assessments, as this runs contrary to the intention of speed up and reduce evidence burdens for the new Plan-making system. There are also insufficient resources available to local authorities to carry out this work. We support any strengthening of emphasis in the NPPF or NPPG, and also in Building Regulations, regarding climate mitigation and adaptation measures, including on building design to achieve Net Zero energy consumption and address issues of overheating, as well as through effective on-site green infrastructure to reduce the urban heat island effect and support nature recovery.

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

Yes

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

Yes.

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?

Yes.

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?

Yes.

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

No. An additional 6 months should be provided, to allow sufficient time for Plans including non-strategic policies, which sit beneath Plans containing strategic policies, to also be submitted and examined under the current Plan system. This timeline would set a deadline of end 2025 for submission of Plans under the current system.

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

Yes.

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

Yes.

48 Do you agree with the proposed transitional arrangements for supplementary planning documents?

No. The removal of supplementary planning documents (SPDs), and the simple and effective system currently in place to prepare, consult on and adopt SPDs, is opposed. Most local authorities have a raft of adopted SPDs which are extremely helpful, to both authorities and applicants, in providing detailed guidance on the application of policies in the local area. This guidance would be impractical and time-consuming to include in Local Plans, and would add considerably to their length and complexity. The suggested process for Supplementary Plans will not provide a satisfactory alternative to SPDs, as it appears that this will be time and cost intensive at a time when local authority resources are becoming even more constrained. The only other alternative for local authorities is to prepare informal guidance, which will not have the same weight as SPDs in the planning process. The government is therefore requested to re-consider the proposed approach to SPDs, which is likely to cause many problems for local authorities which will require further resources, whilst providing no discernible benefits.

If no, what alternative arrangements would you propose?

Retain the current SPD system or introduce a similar streamlined process for the adoption of Supplementary Plans.

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

Yes. National Development Management Policies (NDMPs) will be of value in speeding up the Plan-making process. However, they should be restricted to those subjects which are already the subject of detailed national policy or guidance, or where national consistency is important.

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

Yes.

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?

Yes. Policies on flood risk, sustainable drainage, nationally important nature conservation sites and habitat regulations assessment, historic assets, allotments and playing pitches and protection of public open space.

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?

Policies to enable greater protection of existing employment areas and premises, including suspension of existing permitted development rights to convert such premises to housing. Policies to enable local planning authorities to more directly address health inequalities by controlling uses which have a negative effect on health, where evidence demonstrates such health inequalities locally.

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?

The Framework should identify Levelling Up as a key priority of the NPPF as a whole, including within the economic objective of sustainable development set out in para 8(a) of the current version. The Framework should recognise that addressing health inequalities is also required to address productivity as part of Levelling Up.

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?

No.

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?

Yes.