

UDC response to the government's consultation on the Levelling-up and Regeneration Bill: reforms to national planning policy which runs from 22 December to 2 March 2023.

The consultation and UDC responses were discussed with the Local Plan Leadership Group at a working group meeting on Monday 20 February 2023, agreed with the Cabinet Member for Planning and submitted on 2 March 2023 following authorisation from the Leader of the Council on 1 March 2023.

The consultation asks a number of questions relating to proposed planning reforms. UDC has not sought to answer every question but focussed on those relevant to the council. In the main these are the areas pertaining to local plan-making.

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- 1. Q.1: Do you agree that local planning authorities should not have to continually demonstrate a deliverable 5-year housing land supply (5YHLS) for as long as the housing requirement set out in its strategic policies is less than 5 years old?**
 - 2. UDC agrees that LPAs should not have to demonstrate a 5YHLS, but disagrees that this should be dependent on strategic policies being less than 5 years old. This is unrealistic in some LPA's circumstances, and is contrary to plan-making guidance paragraph 33, which requires only that policies are assessed at least every five years for any need to update, and that strategic policies will need updating every five years if their local housing need figure has changed significantly.*
 - 3. The implied requirement for new strategic policies at least every five years less is not realistic for authorities such as Uttlesford which have extremely challenging geographies, and lack the infrastructure for the scale of growth the 'standard method' indicates is required.*
 - 4. Identifying possible solutions; negotiating with all infrastructure providers, other affected authorities and landowners, and obtaining the funding to deliver such solutions is extremely resource hungry and time consuming. Much as frequent updates of strategic policies are desirable, this is almost impossible to achieve in challenging locations such as Uttlesford, especially in the context of severe public-sector planner recruitment difficulties.*
 - 5. The inflexibilities of national policy on plan-making, such as the expectation of district-wide strategic policies before all else, and the requirement for these to be updated at unrealistic intervals, result in much unplanned development happening before appropriate policies can be put in place. This undermines other ambitions of national policy such as design, sustainability and community buy-in).*

6. *Over the years plan-making has become freighted with ever more demands, constraints and resource requirements, even as local authority resources have reduced, to the detriment of sound and effective forward planning.*

7. Q.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)?

8. Yes

9. Q.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?

10. Yes

11. Q.4: What should any planning guidance dealing with oversupply and undersupply say?

12. *Planning authorities should be required to state how they are planning to address any oversupply or undersupply in the light of the particular circumstances of the time and in that place.*

13. *National policy should emphasise the importance of doing so, and the adverse potential effects which may result from oversupply or undersupply, and suggest potential responses, but avoid being over-prescriptive as to how this a best addressed in the particular local circumstances.*

14. Q.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?

15. *UDC is strongly supportive of these changes, but also considers the same criteria should be applied to Local Plans.*

16. Q.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?

17. *UDC agrees the specific changes proposed on these matters. It would not necessarily agree different changes which might be said to be aimed at achieving the rather vague objective stated in the question.*

18. *The aspiration in the indicated revision to Paragraph 7 for 'homes and other forms of development, including supporting infrastructure in a sustainable manner' would be more likely to be realised if there were once again a formal system for planning at a strategic (i.e. larger than district) scale. The current Duty to Cooperate and the proposed replacement proposed in the Levelling Up Bill are not an adequate substitute for such a system.*

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

20.UDC welcomes the potential for a more reasoned approach to meeting need than simply applying the numerical result of a highly debatable algorithm without regard to the geography and circumstances of the local planning authority area.

It understands and accepts that local planning authorities' preferences must be balanced with the wider need for increased housing delivery. The current arrangements, however, too inflexible, resulting in delays to getting plans in place, less sustainable and beautiful development than could be the case, and undermines public faith in the planning.

21.A more nuanced approach to the results of 'standard method' would reduce the quantum planned development in some instances and locations, but could potentially achieve more in numbers and quality in the longer run.

This aspect of national policy should not be considered in isolation, but alongside other factors which could improve delivery, including

- a review of the 'standard method' itself;*
- the adequacy of state funding for social rented housing;*
- the adequacy of state funding for infrastructure in advance of development and land acquisition, and the uncertainties and complexities in its distribution and availability generated by competition and centralisation;*
- the adequacy of existing infrastructure, given that perhaps the most common objection to planned new development is that existing infrastructure (whether health, transport, water, sewerage, transport, education, etc.) is inadequate, and further development will make this worse;*
- the continuing poor standards of quality, beauty and availability to local people of most new development must be addressed if the scale of development required is to be achieved, and people are to believe that the planned future could be an improvement on the present in terms of quality of life.*

22.Q.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?

23.UDC strongly supports clarification that the standard method is just the starting point, and that alternatives to the standard may be appropriate in particular circumstances where demonstrated.

- 24.Q.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?**
25. *UDC welcomes the recognition that the need to meet the nation's housing needs must be done in a way that takes into account the capacity, desirability and sustainability of development in particular localities.*
26. *The Council considers inadequate, though, the specific wording changes and proposed categories of justification for departures from the standard method's results.*
27. *Density, green belt and oversupply is an inadequate range of factors to take into account in judging the capacity of an area's capacity. Deliverability (within the plan timeframe) should be admitted as an additional factor as should infrastructure out of the control of the council (strategic road capacity and water scarcity are key examples and significant constraints in Uttlesford).*
28. *That said, it is unlikely that an NPPF checklist of specific factors which could warrant a departure from delivering housing need (however defined) could adequately cover all the relevant local circumstances. It would therefore be preferable for the test to be applied at examination to be framed in more qualitative terms, e.g. does the plan deliver in the long term, and in the wider geographical context, the most sustainable and beautiful results achievable, taking into consideration interests of acknowledged importance.*
29. *The current local planning system is ill-equipped to deliver in Uttlesford the indicated scale of growth, and the road, sustainable transport and other infrastructure necessary to support it. Much of the area has high environmental quality, a dispersed settlement pattern, and poor transport infrastructure. Even those limited areas proximate to relatively high level and quality transport infrastructure (and which also have their own environmental constraints) cannot accommodate strategic scale development without infrastructure costing more than the funding that can be extracted from such development.*
30. *A major new community or communities of a size that might be one potential solution that could both warrant the major infrastructure required and produce a sustainable and attractive outcome is extraordinarily difficult to achieve through a local plan alone.*
31. *The District's boundaries do not reflect functional relationships with the surrounding areas, and the District's position at the junction of three Counties adds further substantial challenges. The Duty to Cooperate does not provide an effective means of addressing these challenges, depending as it does on the willingness of neighbouring authorities to devote scarce resources and compromise their aspirations. The absence of a strategic planning system militate against successful resolution of such issues, and is*

something the Government needs to address if the nation's housing and other needs are to be effectively and sustainably met.

- 32. In the absence of such changes the NPPF needs to recognise that a range of factors may prevent timely delivery of the quantum of housing or other development, either at all or at a pace which allows early resolution of the strategic scale challenges, and the time required for the latter should not preclude the local planning authority putting in place planning policies that help deliver the sustainability, design and other ambitions of national policy.*
- 33. The reference to increased density should be refined from that proposed if it is not to result in poor planning. It is important that the definition of what constitutes an acceptable reason for moving away from delivering the housing and other development required (however defined) does not suggest that an increase in density per se is a reason for such a variation. This could be achieved through, for instance, reference to where this causes harm to interests of acknowledged importance.*
- 34. An increase in density is often the most sustainable way to accommodate additional growth. Some of the country's (and the world's) finest townscapes are the result of development that increased densities. In many towns there are extensive areas of low density development relatively close to town centres and of little or no conservation or community value, and where an increase in densities could accommodate more people in close proximity to facilities and public transport without sacrificing quality of life. If the result, over time, of an insufficiently nuanced approach to densities resulted in new development generally being at higher densities further from facilities this would have adverse social and environmental effects, as well as being costly in terms of delivering infrastructure and public transport, and reduce opportunities for sustainable movement.*
- 35. In the longer term, high levels of housing (and other development) delivery will only be achieved and sustained, if people believe that change can deliver improvements to their lives and their local environments. The changes to the wording of NPPF should focus on ensuring that planning judgements focus on achieving this, and take into account all relevant factors.*

36.Q.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?

- 37. Planning authorities should be required to demonstrate only a prima facie case that the change in character of an area, whether through density or other change, is contrary to the achievement of the NPPF's objectives as set out in its Paragraph 8.*

38.Q.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?

39.UDC disagrees with the proposed deletion of the requirement for plans to be justified, but strongly supports the ambition of the revisions to deliver a more proportionate approach to examinations.

40.It is the definition of what constitutes adequate justification that needs attention, rather than the need for justification itself. The lack of an explicit 'justification' for a plan is likely to undermine the already shaky legitimacy of plans in the minds of some of the public and relevant professions.

41.The current version of the NPPF already states that the soundness test justification should be 'based on proportionate evidence'. What is required is a clearer and more detailed definition of what 'proportionate evidence' is and isn't, and also of what 'an appropriate strategy' could mean.

42.The NPPF itself demands justification of policies (and also decisions on planning applications) in over a dozen places even were the 'Justification' soundness test to be deleted as proposed. (See for example footnote 22 relating to the 'Positively Prepared' test of soundness.)

43.Examinations, and the preparations and evidence required to successfully pass, have become far too time and resource hungry, without a concomitant increase or improvement in the sustainability, beauty and delivery of development. The adverse effects of unplanned, or poorly planned, development that occurs as a result of the inordinate time it now takes to get a new plan in place needs to be considered alongside the merits of a particular plan.

44.Lengthy and overly detailed scrutiny of plans, and unrealistic expectations of the degree of certainty of delivery and outcomes that could and should be achieved, do not achieve either the best planning outcomes, nor general acceptance of the process and the resulting plans. Sometimes it is better to make a decision – i.e. get a broadly reasonable and up-to-date plan in place – than to make no decision at all.

45.Q.16: Do you agree with the proposed four-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?

46. Yes.

47.Q.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?

48. *Yes. Most definitely. The current system is not fair to councils approving sufficient homes which developers do then not build out. Councils should not be penalised for that.*

49.Q.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?

50. *Yes. Definitely.*

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

52. *As the Government has recognised the inadequacies of the 2022 Housing Delivery test it would be somewhat perverse to pursue the intended consequences. They should be suspended and amended in the light of the 2023 Test.*

53. Q.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?

54. *Yes. If adequate social rent homes are to be delivered, however, it will require concerted Government action - and funding - beyond reliance on planning policy.*

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

56. *Yes*

57.Q.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)?

58. *Yes. The effectiveness of small sites should further be explored in the context of Neighbourhood Plan making.*

59.Q.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?

60. *Greater emphasis might be given to “local housing needs assessments” rather than excessive reliance upon the Housing Delivery Test in order better to identify actual local needs*

61. Q.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?

62. *Yes. Where such organisations can provide legally robust mechanisms to ensure that the properties remain genuinely affordable in perpetuity. Developers could be encouraged to offer and work with councils to directly deliver social housing.*
- 63.Q.30: Do you agree in principle that an applicant’s past behaviour should be taken into account into decision making? If yes, what past behaviour should be in scope?**
64. *Yes. Consider past enforcement breaches, particularly serious breaches and those that affect heritage assets and non-compliance with previously approved designs. “Land banking” (obtaining permission and not building out) should be actively discouraged and taken into account as an element of such past behaviour, as should previous poor construction practice and disruption.*
- 65.Q.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?**
66. *Yes.*
- 67.Q.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?**
68. *Yes.*
- 69.Q.35: Do you agree greater visual clarity on design requirements set out in planning conditions should be encouraged to support effective enforcement action?**
70. *Yes*
- 71.Q.38 Do you agree that this is the right approach to making sure that the food production value of high value farmland is adequately weighted in the planning process, in addition to current references in the Framework on best and most versatile agricultural land?**
72. *The wording of the proposed amendment to the Footnote does not do what is proposed above, i.e. provide further detail on the consideration that should be given to the relative value of agricultural land for food production. Unless the new sentence is qualified by reference to higher grade agricultural land, or in some other way, it is likely to be understood and used as weighing against any development involving agricultural land. In Uttlesford agricultural land is under pressure, not just from housing, but a significant increase in solar farm development.*
- 73.Q.39: What method and actions 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?

74. This should be incorporated into the process of Strategic Environmental Assessment and Sustainability Appraisal of plans and planning decisions.

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

76. Planning policy has a key role to play in enabling climate change adaption and flood-risk management, and the NPPF should encourage nature based solutions and multi-function benefits. Uttlesford's emerging Local Plan will be climate-led. The processes for judging and justifying the measures incorporated in plans should be integrated with the Strategic Environmental Assessment and Sustainability Appraisal of those plans.

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

78. National Development Management Policies should not be introduced without a mechanism by which local planning and authorities and others dealing with their implementation can feed back issues with their wording and implementation, and this feedback is used to refine and supplement where appropriate the first iteration of those policies.

79. Q.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 feel safe in our public spaces, including for example policies on lighting/street lighting?

80. Addressing these issues as soon as possible is necessary, but unlikely to be achieved by simplistic policy (as demonstrated over numerous decades by previous government safety/security prescriptions poor results). Design for safety is a complex issue, requiring balancing judgements and careful consideration of the specific local context. The NPPF could usefully highlight the importance of local planning authorities considering the safety of women and girls, and other vulnerable groups, when setting policies or making decisions, but should avoid being prescriptive about how this is implemented.