

## **Annex 2: Detailed Summary of the NPPF Consultation and other Planning Reforms**

### **1. Purpose of this report**

- 1.1 The purpose of this report is to set out a summary of the headlines proposed in the NPPF consultation to assist and inform an understanding of the potential implications of this for Tonbridge and Malling Borough Council (TMBC).
- 1.2 The consultation is seeking views on a proposed approach to revise the National Planning Policy Framework (NPPF) to achieve sustainable growth in the planning system. The Government is also seeking views on a series of wider policy proposals in relation to increasing planning fees, local plan intervention criteria and appropriate thresholds for certain Nationally Significant Infrastructure Projects (NSIPs). The consultation also sets out how and when it is expected for every Local Planning Authority (LPA) to rapidly create a clear, ambitious local plan for high quality housebuilding and economic growth.
- 1.3 The consultation document<sup>1</sup> explains the changes proposed. Alongside this, the Government has also provided an accompanying draft NPPF<sup>2</sup>. It is proposed that changes will be made to the NPPF as this is vital to delivering the Government's commitment to achieve economic growth and build 1.5 million new homes. The third document that is available is the 'Outcome of the proposed revised method'<sup>3</sup>. This sets out the results of a new standard method calculation and compares this to the current standard method calculations on both a regional and local authority basis.
- 1.4 The consultation runs from 30<sup>th</sup> July to 24<sup>th</sup> September 2024, and the Government has set out that it will respond to the consultation and will publish NPPF revisions before the end of the year, so that policy changes can take effect as soon as possible.
- 1.5 In summary, the proposed changes set out within the consultation seek to:

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<sup>1</sup> Proposed reforms to the National Planning Policy Framework and other changes to the planning system <https://www.gov.uk/government/consultations/proposed-reforms-to-the-national-planning-policy-framework-and-other-changes-to-the-planning-system/proposed-reforms-to-the-national-planning-policy-framework-and-other-changes-to-the-planning-system>

<sup>2</sup> National Planning Policy Framework: draft text for consultation [https://assets.publishing.service.gov.uk/media/66acffddce1fd0da7b593274/NPPF\\_with\\_footnotes.pdf](https://assets.publishing.service.gov.uk/media/66acffddce1fd0da7b593274/NPPF_with_footnotes.pdf)

<sup>3</sup> Outcome of the proposed revised method <https://assets.publishing.service.gov.uk/media/66a8d6a20808eaf43b50d9a8/outcome-of-the-proposed-revised-method.ods>

- make the standard method for assessing housing needs mandatory unless hard constraints are demonstrated and all other options have been exhausted;
- reverse changes to the NPPF made in December 2023, which are considered detrimental to housing supply;
- Implement a new standard method calculation to support house building;
- Broaden the definition of brownfield land and strengthen the expectation that applications on brownfield land will be approved and that plans should promote an uplift in density in urban areas;
- identify grey belt land within the Green Belt for both plan-making and decision-making to help meet development needs;
- improve the operation of ‘the presumption’ in favour of sustainable development to support housing supply;
- deliver affordable, well-designed homes, with new “golden rules” for land released in the Green Belt to ensure development is delivered that is in the public interest;
- makes wider changes to enable local authorities to prioritise the types of affordable homes needed in their areas and support a more diverse housebuilding sector;
- support economic growth in key sectors, aligned with the Government’s Industrial Strategy and future growth plans;
- deliver community needs to support society and the creation of healthy places;
- support clean energy and the environment, including through support for onshore wind and renewables.

1.6 The Government’s policy objectives are set out within Chapter 2 of the consultation document. The main driver for the changes proposed is to fix the foundations of the economy through housebuilding, which will create jobs and deliver new and improved infrastructure.

1.7 Local Plans are considered to be key to delivering the Government’s policy objectives by spelling out where development will and will not take place, bringing certainty to all parties as well as being the mechanism through which local communities can have their say in how homes are built. The consultation sets out that it is unacceptable for LPAs to not make a local plan.

## **2. Chapter 3 – Planning for the homes we need**

2.1 The consultation sets out that the Government believes that decisions about what to build and where should reflect local views, and planning should be about how to deliver the housing an area needs – not whether to do so at all.

The following changes are therefore proposed with the aim of stopping debates about the right number of homes and to support authorities to 'get on with plan-making':

- Changes to paragraphs 1 and 61 of the NPPF to make clearer the importance of planning to meet housing need.
- Removing 'opt outs' for not meeting housing needs, such as not meeting need in 'exceptional circumstances' and 'alternative approaches' for demonstrating need.

2.2 LPAs will be expected to make all efforts to allocate land in line with housing need as per the standard method. A lower figure may still be justified on the basis of local constraints such as National Parks, protected habitats and flood risk areas but this would need to be evidenced and justified through local plan consultation and examination, as is the current requirement.

2.3 The deletion of paragraph 62 and 130 in the current NPPF is proposed. Paragraph 62 deletes the application of the standard method to 'urban uplift' which directs increased housing growth to the named 20 cities and urban centres. The consultation document sets out that this approach is no longer needed given other proposed changes (see section 4 below).

2.4 Paragraph 130 sets out that significant uplifts in density may be inappropriate if it would result in development being out of character with the existing area. The Government instead proposes to strengthen expectations that plans should promote an uplift in density in urban areas by focusing on ensuring development plans support the efficient use of land at appropriate densities. It is proposed for this to be supported through the preparation of localised design codes / masterplans rather than district-wide design coding. This would include regeneration sites, areas of intensification, urban extensions and the development of large new communities.

2.5 The 'presumption in favour of sustainable development' is set out at paragraph 11 of the current NPPF. Its primary function is to provide a fallback to encourage planning permissions to be granted where local plans are out-of-date and where there is an insufficient supply of land. The 'presumption' tilts the balance to approval where development has not been allocated (for example, on the edge of a settlement or where land is allocated for another purpose). The balance for approval is tilted unless doing so would cut across protections for safeguarded areas, such as national landscapes, habitat sites or where adverse impacts would significantly outweigh the benefits when assessed against national policy.

- 2.6 The consultation seeks to address known issues of debate and litigation in this policy area by clarifying that the relevant policies in which to consider whether the ‘presumption in favour of sustainable development’ should apply are those relating to the supply of land – which are those policies that ‘set an overall requirement and / or make allocations and allowances for windfall sites for the area and development concerned’, as provided in proposed footnote 8. It is also proposed to add explicit reference to the need to consider locational and design policies, as well as policies relating to affordable housing when bringing sites forward under the ‘presumption’ to ensure high standards of ‘all’ development.
- 2.7 The consultation proposes to restore the requirement to demonstrate a 5-year housing land supply<sup>4</sup> reversing the changes made in the revised December 2023 NPPF publication. The NPPF currently states that where a local planning authority has an up-to-date plan which meets certain criteria, it is exempt from having to continually demonstrate a 5-year housing land supply while that plan remains up to date. The consultation seeks to delete this and proposes that all LPAs, regardless of local plan status (even when a plan is adopted), will be required to continually demonstrate 5-years of specific, deliverable sites for housing.
- 2.8 Other matters proposed in Chapter 4 of the consultation include:
- Deleting the ability to count oversupply against upcoming supply in 5-year housing land supply calculations given the chronic need for housing;
  - Restoring the requirement for LPAs to include a 5% buffer on top of their 5-year housing land supply.
  - Requiring LPAs to include a 20% buffer where there has been a significant under delivery of housing over the previous 3 years, as measured through the Housing Delivery Test.
  - Removing the provision of a 10% buffer if LPAs wished to confirm a 5-year of deliverable sites through an annual position statement.
- 2.9 It is noted in the consultation that the above changes to the 5-year housing land supply requirements will invoke pro-supply measures, ensuring that a pipeline of deliverable sites is maintained at all times.

#### Maintaining effective co-operation and the move to strategic planning

- 2.10 Whilst the Levelling Up and Regeneration Act 2023 will revoke the Duty to Cooperate, the consultation report confirms that the Duty will remain a legal

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<sup>4</sup> The December 2023 NPPF provided that only 4-years supply was required if a local authority was in the later stages of plan-making. This was to protect authorities from the presumption where they have a well-developed or up-to-date plan.

requirement for local plans progressed under the current local plans system. It proposes that moving forward housing need cannot be met without planning for growth on a larger than local scale, and that it will be necessary to introduce effective new mechanisms for cross-boundary strategic planning to deliver sustainable growth and address key spatial issues. The Government plans to formalise through legislation the steps necessary to enable universal coverage of strategic planning, exploring the most effective arrangements for developing Spatial Development Strategies (SDSs) including geographies to cover functional economic areas and democratic mechanisms for securing agreement.

- 2.11 In the short term, amendments to the ‘maintaining effective co-operation section of the NPPF are proposed to ensure greater collaboration between authorities on strategic issues that are cross boundary. The updates include:
- Making the role of cross boundary working clear;
  - Ensuring that plan policies are consistent with other bodies where a strategic relationship exists and consistent with relevant investment plans of infrastructure providers;
  - Ensuring that a consistent approach is taken to delivery of major infrastructure;
  - Ensuring that unmet development needs from neighbouring authorities are accommodated;
  - Ensuring the appropriate management of allocations or designations which cut across the boundary of plan areas or has significant implications for neighbouring areas; and
  - Providing that strategic policy-making authorities and Inspectors will need to make an informed decision on the basis of available information where plans come forward at different times or where there is uncertainty from infrastructure providers.

### **3. Chapter 4 – A new Standard Method for assessing housing needs**

- 3.1 The consultation report sets out issues with the current standard method for assessing local housing need and proposes a revised standard method that seeks to: address issues with the current approach; support a more ambitious house building strategy; provide greater certainty to the sector through more stable and predictable housing numbers; achieve a more balanced distribution of homes across the country by directing homes to where they are most needed and least affordable; maximises housing delivery in urban areas including loading a third of national need to London; and be straightforward to understand and apply. The new standard method proposed looks to:

- Use a baseline set at a percentage (0.8%) of existing housing stock levels using the most recent dwelling stock estimates by local authority districts<sup>5</sup> – It is proposed that this will provide a stable baseline, driving a level of delivery proportionate to the existing size of settlements and rebalance the distribution to reflect growth ambitions across the Midlands and North;
- Top up the baseline by focusing on those areas facing the greatest affordability pressures, using a stronger affordability multiplier to increase this baseline in proportion to price pressures; and
- Remove arbitrary caps and additions, so that the approach is driven by an objective assessment of need.

3.2 In relation to affordability, the approach is similar to the current approach using the workplace-based median house price to median earnings ratio<sup>6</sup>, however, two specific changes are proposed including:

- Increasing the significance of affordability by revising the affordability adjustment where the baseline stock figure would be adjusted upwards in areas where house prices are more than four times higher than earnings. For every 1% above the 4:1 ratio the multiplier increases to 0.6%. The current method is 0.25% multiplier.
- Using an average affordability over the three most recent years for which data is available. This is instead of using the most recent datapoint. The purpose is to provide further stability and certainty of inputs and outputs of the method.

3.3 Other changes to the standard method include removing the 40% cap to limit the level of increase in housing for individual authorities. It is suggested that this will ensure a boost in housing supply as well as housing need being reflective to the level of need that authorities should be planning to release land for, according to their specific circumstances. As mentioned above, the urban uplift will therefore be removed given that the method will seek to ensure that housing need is reflective of specific locational circumstance.

3.4 The consultation report sets out that the new standard method will increase new supply across the country, and it is provided that the output will be the starting point for determining housing requirement and that LPAs must make all efforts to allocate land in line with it, unless despite taking all steps it is not possible to meet it, including optimising density, sharing need with neighbouring authorities and reviewing Green Belt boundaries.

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<sup>5</sup> <https://www.gov.uk/government/collections/dwelling-stock-including-vacants>

<sup>6</sup> Outcome of the proposed revised method:  
<https://www.ons.gov.uk/peoplepopulationandcommunity/housing/datasets/ratioofhousepricetoworkplacebasedearningslowerquartileandmedian>

3.5 The Government have published the outcomes for the new revised method as part of the consultation material. Applying the new standard method would result in an increase in housing need for TMBC from **820** dwellings per year under the current method to **1057** dwellings per year, a 237 dwelling per year increase. An increase in housing need is also proposed for other West Kent authorities also.

#### **4. Chapter 5 – Brownfield, grey belt and the Green Belt**

4.1 The current NPPF promotes utilising brownfield land and this approach is set to continue but with a proposed addition of wording in the NPPF at paragraph 124c) to reinforce the expectation that development proposals on Previously Developed Land (PDL) are viewed positively and ‘should be regarded as acceptable in principle’. This would be the first step on the way to delivering brownfield passports.

4.2 The consultation report sets out that brownfield development alone will not be enough to meet the countries housing need, and whilst recognising the important role that the Green Belt plays in preventing urban sprawl, the consultation sets out its proposals to altering the post-war Green Belt policy to enable those local authorities who are unable to meet their housing and / or employment need an opportunity to undertake a Green Belt review.

4.3 In reviewing Green Belt land, the consultation proposes that the consideration of PDL is the first step as it makes no sense to protect sites in the Green Belt that have once housed petrol stations or car parks, for example. The NPPF revision at Paragraph 154c seeks to relax the restrictions currently applied to PDL and limited infilling to make clear that development is ‘not inappropriate’ where it would not cause substantial harm to the openness of the Green Belt. Whilst the consultation does not provide an updated definition of PDL, the consultation seeks views on whether the definition of PDL should be expanded, whilst ensuring that the development and maintenance of glasshouses for horticultural production is maintained.

4.4 Given that PDL alone is unlikely to deliver the growth required, the consultation proposes that Green Belt sites that are ‘low performing’<sup>7</sup> should be considered for release. The consultation proposes inserting a new criteria-based definition of grey belt land into the NPPF Glossary to support a consistent and transparent approach to identifying land. The definition proposed is as follows:

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<sup>7</sup> When assessed against the criteria in the current NPPD at Paragraph 143.

- **Grey belt:** For the purposes of Plan-making and decision-making, grey belt is defined as land in the Green Belt comprising Previously Developed Land and any other parcels and/or areas of Green Belt land that make a limited contribution to the five Green Belt purposes (as defined in para 140 of this Framework) but excluding those areas or assets of particular importance listed in footnote 7 of this Framework (other than land designated as Green Belt).
- 4.5 The areas excluded include Habitats sites including Ramsar sites and habitat mitigation sites, SSSIs, Local Green Space, National Landscapes, Heritage coast, irreplaceable habitats, designated heritage assets, non-designated heritage assets of archaeological interest, which are demonstrably of equivalent significance to scheduled monuments, and areas at risk of flooding or coastal change.
- 4.6 The Government are also proposing to provide guidance to assist LPAs in judging whether land makes a limited contribution to the Green Belt purposes. The consultation states - Land which makes a limited contribution to the Green Belt purposes will:
- (a) Not strongly perform against any Green Belt purpose; and
  - (b) Have at least one of the following features:
    - i. Land containing substantial built development or which is fully enclosed by built form;
    - ii. Land which makes no or very little contribution to preventing neighbouring towns from merging into one another;
    - iii. Land which is dominated by urban land uses, including physical developments;
    - iv. Land which contributes little to preserving the setting and special character of historic towns.
- 4.7 The consultation document sets out that in providing a definition for grey belt and by providing guidance the Government:
- Wants to avoid prescribing specific and quantifiable measures of terms such as ‘substantial built development’.
  - Wants to protect land that makes a strong contribution to Green Belt purposes, while allowing authorities to consider Green Belt land based on its merits for potential development.
  - Wants to ensure the grey belt definition acts to accurately identify land with a high sustainable development potential, while avoiding incentives to allow land degradation.
  - Does not want to undermine existing protections for best and most versatile agricultural land, which will remain policy.



- Are clear that sustainability remains an overarching objective including that around effective use of land and access to transport.

#### Land release through plan-making

- 4.8 Currently there is no requirement for LPAs to review Green Belt. The consultation proposes to change this to require LPAs to undertake a review where an authority cannot meet its identified housing, commercial or other need without altering Green Belt boundaries. A sequential approach is proposed to guide Green Belt release asking LPAs to first consider PDL, then consider grey belt and to then consider higher performing Green Belt sites where these can be made sustainable. The aim of the approach is to identify low quality Green Belt first while not restricting opportunities which could be made more sustainable, so that decisions can be made that best support the development needs and sustainability objectives of an area. Whilst there is an expectation for development needs to be met in full, the revised wording in the NPPF at paragraph 145 sets out that Green Belts should not be altered if it would fundamentally undermine the function of the Green Belt across the area of the plan as a whole.

#### Allowing Development on the Green Belt through Decision Making

- 4.9 In advance of Local Plans coming forward and Green Belt reviews getting underway, a new paragraph in the NPPF is proposed to support the release of the Green Belt outside of the plan-making process. This sets out that where a 5-year housing land supply cannot be demonstrated or where a LPA is delivering less than 75% against the HDT or where there is unmet commercial or other need, then Green Belt development will not be considered inappropriate when it is either on sustainable 'grey belt', where it would not fundamentally undermine the function of Green belt and where 'golden rules' for major development are satisfied (see below). Similar to current national policy, other than grey belt and PDL, it would remain the case that Green Belt land would only be able to be released where 'very special circumstances' exist and such cases would remain exceptional.

#### Golden rules to ensure public benefit

- 4.10 Where land is released from the Green Belt the Government are proposing a set of 'golden rules' to deliver benefits for communities and nature. This includes a requirement to deliver at least 50% affordable housing, with an appropriate proportion being social rent, subject to viability, improvements to local or national infrastructure, the provision of new or improved good quality green spaces that are accessible to the public. These are set out at paragraph 155 of the draft NPPF.

#### Green Belt land and Benchmark Land Values

4.11 The consultation document sets out that the existing use and hope value of Green Belt land is generally low due to its designation, however, the consultation recognises that contributions that can be secured for community and environmental benefits may vary between areas and individual sites due to some areas having lower house prices and / or some sites having abnormal costs. In considering this, limited use of viability assessments has been proposed only for where negotiation is genuinely needed for development to come forward, particularly in relation to affordable housing. The following approaches/options have been put forward as part of the consultation:

- (a) Government sets benchmark land values for different land uses to be used in viability assessments through national policy, to inform the policies developed on benchmark land value by local planning authorities. These would reflect the need for policy delivery against the golden rules.
- (b) Government sets policy parameters so that where land transacts at a price above benchmark land value, policy requirements should be assumed to be viable and viability negotiations should not be undertaken or planning permission granted where a development cannot comply with the golden rules policy.
- (c) Government sets out that where development proposals comply with benchmark land value requirements, and a viability negotiation to reduce policy delivery occurs, a late-stage review should be undertaken to test actual costs and revenues against the initial viability assumptions, where should the initial assumptions be lower then additional contributions can be secured, to bring the development closer to policy compliance.

4.12 The Government is also considering how relevant bodies, such as LPAs and Homes England could take a proactive role in land assembly to help bring forward policy compliant schemes, supported by compulsory purchase powers.

## **5. Chapter 6 – Delivering affordable, well-designed homes and places**

5.1 The focus of the consultation report for affordable homes is around how to support affordable housing delivery alongside NPPF reform to achieve the Government's aims of a more diverse housing market that delivers homes quicker and better, responding to the range of community needs. To do this, the Government confirms that it will not be introducing the Infrastructure Levy as introduced in the LURA but will instead be focusing on improving the existing system of developer contributions.

- 5.2 The consultation proposes that the current expectations for LPAs to establish housing requirements and community need will continue, however, an expectation will be set for housing need assessments to explicitly consider the needs of those requiring Social Rent and for LPAs to specify their expectations on the minimum proportion of Social Rent homes required as part of their affordable housing policies.
- 5.3 In considering the Government's support for Social Rent delivery, it is proposed to remove the prescriptive requirements in paragraph 66 of the NPPF relating to affordable home ownership products including the requirement to deliver 10% affordable home ownership products on major sites and the minimum 25% of affordable housing units to be First Homes. It is also proposed to remove starter homes from the affordable homes definition and the definition to be updated to reflect the above. This change would allow LPAs to identify the right balance for the delivery of affordable home products in accordance with the needs of the community.
- 5.4 The consultation also proposes a new policy to promote the delivery of mixed-use sites to support the creation of diverse communities alongside the timely build out of sites. This policy sets out that LPAs should support the delivery of mixed-use sites through policies and decisions including a mixture of ownership and rental tenures, including rented affordable housing and build to rent, as well as housing designed for specific groups such as student accommodation or older people's housing, and plots for self or custom build.
- 5.5 Other changes proposed include:
- Making explicit reference in paragraph 63 of the NPPF to 'looked after children' which will require this housing need to be assessed and reflected in planning policies;
  - Strengthening the provisions in the NPPF to support community-led development by including within the definition of community-led development' housing that is developed by a group originally set up for a purpose other than housebuilding and by removing the size limit for community-led exception sites, where an alternative limit is established through the development plan.
  - Removing reference to beauty and beautiful in relation to well-designed development given that there is already a clear framework through policy and National design guidance on how to achieve well-designed places and also making a small amendment to paragraph 138 of the NPPF to clarify this.

- Updating paragraph 124(e) to support all upward extensions, not just mansard roofs.

5.6 The consultation also sought views on:

- How to best promote sites that are predominantly or exclusively for affordable housing including rural exception sites, while ensuring that adequate safeguards are in place that avoid unintended consequences. For example, should there be an appropriate maximum size for such schemes?
- Whether changes are needed to the definition of ‘affordable housing for rent’ in the Framework glossary to make it easier for organisations that are not Registered Providers, for example community-led developers and almshouses, to develop new affordable homes. The consultation sets out that views on this will be used to inform an approach to National Development Management Policies.
- Why authorities are finding it difficult to meet current policy requirements of delivering 10% of housing on small sites and views on measures to strengthen the small site policy through the NPPF.

## **6. Chapter 7 – Building infrastructure to grow the economy**

6.1 The consultation report sets out that alongside delivering 1.5 million new homes, that a reform of the planning system is required to build the infrastructure needed to power the economy and support a forthcoming industrial strategy. To support this the Government are proposing a number of changes to the NPPF to help support investment and construction of key modernised industries to support economic growth. The key industries include laboratories, gigafactories (battery cell manufacturing plants), digital infrastructure including data centres, freight and logistics. This is reflected in updates to paragraphs 86b) and 87 of the NPPF where:

6.2

- Paragraph 86b) sets out that planning policies should set criteria for and identify strategic sites to deliver the key industries mentioned above.
- Paragraph 87a) supports proposals for new or upgraded facilities and infrastructure that are key to data, creative or high tech industries;
- Paragraph 87b) provides additional wording to ensure that supply chains, transport innovation and decarbonisation are considered in terms of locational requirements of the storage and distribution sectors;
- Paragraph 87c) is added to make provision in planning policies and decisions for the expansion or modernisation of other industries of local, regional or national importance to support economic growth and resilience.

6.3 The consultation also seeks views on whether the Government should go further by reflecting its priorities for data centres, gigafactories and laboratories in the National Significant Infrastructure Project (NSIP) consenting regime process. This follows on from changes made in 2013 so that certain business and commercial developments such as offices, sports, leisure and tourism of substantial size or that may have a significant economic or important for economic growth could be directed into the NSIP regime.

## **7. Chapter 8 - Delivering community needs**

7.1 A number of revisions to the NPPF are proposed in relation to delivering community needs in recognition that community needs go beyond the provision of homes and jobs alongside a critical need to address current issues around public infrastructure, creating healthy communities and promoting active travel. To facilitate this, wording is proposed to the following paragraphs in the NPPF:

- paragraph 100 - to make clear that significant weight should be placed on the importance of facilitating new, expanded, or upgraded public service infrastructure when considering proposals for development.
- Paragraph 99 – additions to include early years and post year school places in relation to meeting education choices, recognising that access to affordable childcare is important for parents seeking to rejoin the workforce and that the delivery of a modern economy needs a work force with the skills necessary for the future.

7.2 In relation to transport planning, the consultation notes that at present, planning for travel too often follows a simplistic ‘predict and provide’ pattern, with limited regard for quality of place or whether planned infrastructure is fully justified. To ensure better outcomes for residents and the environment, the Government are proposing for a ‘vision-led’ approach to be taken so that desired outcomes become the focus. To address this, paragraph 114 is proposed to be updated to include reference to a vision-led approach to promoting sustainable transport modes, taking into account the type of development and its location. In addition, paragraph 115 is also proposed to be updated in relation to preventing or refusing development on highway grounds if there would be unacceptable impact on highway safety, or where residual or cumulative impacts on the road network would need to be severe ‘in all tested scenarios’.

7.3 Through the consultation the Government is also seeking views on whether and how the planning system and national policy could provide greater

direction and clarity on the promotion of health through local plans and planning decisions noting that LPAs are already able to develop policies to support local strategies to improve health and well-being but there is considerable variation in the extent to which they do so. This includes tackling obesity, encouraging active travel and supporting a healthy childhood.

## **8. Chapter 9 – Supporting green energy and the environment**

- 8.1 This chapter both seeks views on a number of climate change and environment matters and also proposes some updates to the NPPF.

### Supporting onshore wind

- 8.2 Footnotes 57 and 58, relating to paragraph 163 of the NPPF were deleted by the Chancellor on 8<sup>th</sup> July 2024. The purpose was to remove additional tests on onshore wind schemes to help promote the delivery of onshore wind projects to meet the target set to double onshore wind generation by 2030. The Government committed to consult on bringing onshore wind back into the NSIP regime and a question is asked on this in the consultation to fulfil the promise.

### Supporting renewable deployment

- 8.3 The consultation sets out a number of NPPF paragraph revisions to strengthen national policy to support renewable and low carbon energy generation to increase the likelihood of LPAs granting permission for such schemes, thus contributing to the 2030 zero carbon electricity generation target. This includes amendments at paragraph 160 which changes ‘consider identifying’ to ‘identify suitable areas for renewable and low carbon energy sources, and supporting infrastructure, where this would help secure their development’, thus setting a stronger expectation for LPAs to proactively identify sites for renewable and low carbon development when producing plans, where allocating a site(s), would help to secure development.
- 8.4 Amendments to paragraph 163 of the NPPF is also proposed which removes ‘in determining planning applications’ from the text. The interpretation of this text removal is that significant weight to the need to support energy efficiency and low carbon heating improvements should also be a consideration for plan making also. Paragraph 164 is also amended, which sets out that LPAs should support planning applications for all forms of renewable and low carbon development.

### Setting the NSIP threshold for solar generating stations and onshore wind

- 8.5 Under the Planning Act (2008) a threshold of more than 50 megawatts is used to define which projects are determined by the Secretary of State under the NSIP regime. Given technological advances the Government are proposing to increase the threshold to 100MW for onshore wind and 150MW for solar projects to follow a proportionate process to secure consent. This would result in projects below these thresholds to be considered through the local planning system.

### Tackling climate change

- 8.6 The consultation does not propose any NPPF amendments but instead seeks views on what specific, deliverable ways could national planning policy do more to address climate change mitigation and adaptation. A question is asked in relation to the current state of technological readiness and availability of tools for accurate carbon accounting in plan-making and planning decisions, and what are the challenges to increasing its use? Whether any changes are needed to policy for managing flood risk to improve its effectiveness and what other actions could be taken through planning to address climate change?

### Availability of agricultural land for food production

- 8.7 A footnote was added in the December 2023 NPPF that made the availability of agricultural land for food production an explicit consideration in determining if sites are appropriate for development. It is proposed for this to be removed on the basis that policy is already clear on this matter.

### Supporting water resilience

- 8.8 The consultation sets out that the Government are considering how to provide water undertakers greater certainty on the planning route for new strategic water infrastructure, to support faster delivery so that water scarcity and quality can be addressed. An amendment to the Planning Act 2008 is suggested to bring projects into the definition of NSIP.

## **9. Chapter 10 - Changes to local plan intervention criteria**

- 9.1 Given the criticality of local plans, the law provides powers for the Government to take action to ensure plans are progressed and are in place. Decisions on intervention are currently made in line with legal provisions and

policy criteria set out in the 2017 Housing White Paper and the Government is considering updating them to align with Government priorities.

- 9.2 The consultation seeks views on whether to remove the intervention powers provided in the Planning and Compulsory Purchase Act 1990 and instead Ministers would approach any future decisions on intervention with substance, rigour and an open mind, and in the context of relevant legal tests. LPAs would also be given an opportunity to set out any exceptional circumstances that might be relevant. An alternative to this would be to instead revise the criteria set out in the 2004 Act so that LPAs who fail to do what is required to get their plan in place or keep it up to date, would be at risk from Government intervention. Intervention options could include issuing plan-making directions through to the removal of plan-making powers.

## **10. Chapter 11 – Changes to planning application fees and cost recovery for local authorities related to Nationally Significant Infrastructure Projects**

- 10.1 Within this chapter views are sought as to whether planning fees should be raised and whether to introduce statutory cost recovery for LPAs for their role in applications for development consent under the NSIP regime.
- 10.2 In relation to planning fees the consultation notes that current fees do not generate enough income to cover the cost of some planning applications and for many LPAs there is a funding shortfall. The Government wishes to reduce the shortfall by ensuring that application fees cover estimate costs for determining those applications. This would ensure that planning departments are sufficiently resourced and it would reduce the funding burden on wider Council budgets. By increasing planning fees, it is expected that the resource would be sufficient to determine applications within the statutory time period and contribute to housing delivery and economic growth. LPA performance would be monitored on a quarterly basis.

### **Proposed fee increase for householder applications**

- 10.3 The current fee for householder applications is £258, however the cost to process such applications is significantly higher. Based on an estimate, it is proposed to increase this to £528. It is noted that there is a balance to be struck between costs for the applicant and reducing the funding shortfall for local authorities, however, the Government consider that this would represent less than 1% of the total cost of the development and also considers the benefits from permitted development rights. Views are sought on this matter.



### Proposed fee increase for other planning applications

- 10.4 The consultation identifies that other planning applications where the cost is greater than the fee received are applications for prior approval, section 73 applications for the variation or removal of conditions and applications for the approval of details reserved by condition. The Government have already consulted on the section 73 application route as introduced by the Levelling Up and Regeneration Act 2023, which included consultation on raising fees for major applications and the majority of respondents were in agreement that fees for major applications should be raised. The Government is therefore seeking views on other applications as part of the consultation.

### Fees for applications where there is currently no charge

- 10.5 Certain applications currently do not require a fee such as listed building consents, demolition in a conservation area, works to trees in a conservation area or those with a Tree Preservation Order mainly due to the fact that owners cannot opt out of these designations. However, these applications require technical input, additional publicity and the cost burden is felt strongly in LPAs, especially those with a high proportion of these application types. Views are sought as to whether a fee should be charged for these applications.

### Localisation of planning application fees

- 10.6 This section of the consultation notes that nationally set fees do not always reflect the full costs for all LPAs and puts forward questions as to whether LPAs should be able to set their own fees to cover actual costs specific to that LPA in determining applications. Two possible models for the localisation of planning fees are put forward.
- Model 1 – Full Localisation: This would allow LPAs to set their own planning fees to achieve, but not exceed cost recovery with the existing fee categories and exemptions set by the Secretary of State. This would require primary legislation and Regulations, including a charging schedule.
  - Model 2 – Local Variation (from default national fee): This would retain a nationally set default fee but provide LPAs the option to vary fees within prescribed limits where national fees do not meet actual costs. This could be for all fees or just select fees.

### Increasing fees to fund wider planning services

- 10.7 Currently planning fees can only be charged at a level to cover the cost of determining planning applications. Other services, for example, planning enforcement, plan-making, heritage and conservation and design services have to be funded from other Council budgets. It is estimated that to cover the cost of these services planning fees would need to be increased by 157%. The consultation seeks views as to whether planning fees should fund wider planning services and what an appropriate fee should be and what planning functions should be funded.

### Cost recovery for local authorities related to NSIP

- 10.8 The consultation notes the important role that LPAs play in the Development Consent Order (DCO) process, by ensuring that local impacts and context are considered in the delivery of infrastructure as well as being responsible for monitoring and enforcing DCO requirements and provisions and any section 106 infrastructure obligations. Engagement in the DCO process is both time consuming and resource intensive. Although there is an option to negotiate planning performance agreements with applicants to provide funding for an agreed level of service, this is often a lengthy process with no certainty. The consultation sets out that the Government are considering whether provisions should be made to allow unitary LPAs to be able to recover costs for services provided and views on what limitations, if any, should be set in regulations or through guidance in relation to the ability to recover costs. The Government considers that fee charging would be most appropriate for host lower and upper tiers (unitary authorities) and that planning performance agreements remain the most appropriate mechanism for neighbouring authorities to recover costs. It is also put forward the consideration as to whether host authorities should be able to waive fees where a planning performance agreement is in place, to provide a more flexible approach where this would be more appropriate based on specific circumstances.

## **11. Chapter 12 – The future of planning policy and plan making**

- 11.1 This chapter of the consultation sets out how LPAs should prepare local plans in response to the revised NPPF. The key points relevant to TMBC are as follows:
- LPAs should continue to progress their plans to adoption under the existing system without delay and LPAs without an up-to-date plan should not stop work on a plan with the intention of preparing a plan under the new system.

- A commitment is re-affirmed to support LPAs in responding to proposed policy changes and getting plans in place. This may include targeted or tailored support to meet individual circumstances of different places.
- To maintain progress in plan-making, transitional arrangements are proposed relating to the different stages of plan-making. TMBC has not undertaken a Regulation 19 consultation, so is considered to be at the early stages of plan-making. It is proposed that all plans at this stage should be prepared against the revised version of the NPPF and progressed as quickly as possible.
- For plans that have undertaken a Regulation 19 consultation, whether these plans can be submitted to the Secretary of State depends on whether or not there is a gap of over 200 dwellings per annum between the LPAs Local Housing Need revised figure. Where this is the case, the Plan will require revision before it can be submitted.

11.2 The Government intends to implement a new planning system as set out in the LURA between summer/autumn 2025. All plans will need to be submitted no later than December 2026 under the current system. This is considered to be a significant extension to the 30<sup>th</sup> June 2025 date that was provided previously. It is considered that the extension will benefit plans that are at earlier stages, providing more time for LPAs to reflect on the revised NPPF and progress plans that will stand up to scrutiny at examination. Further details of the Government's intentions around plan-making reform will be published in due course, which will assist in starting to consider and plan for this.

11.3 The consultation also confirms that the Government will be exploring the creation of a more accessible and interactive, web-based set of national policies (both in the form of National Development Management Policies and national policies for plan-making. The Government will also be considering how national policies for waste and for Gypsy and Travellers can be set out in the future, including which aspects need to form part of the suite of proposals for National Development Management Policies.