



Levelling-up and Regeneration Bill: reforms to national planning policy

Date: 1 March 2023

The CLA is the membership organisation for owners and managers of land, property and businesses in rural England and Wales. Our 27,000 members own or manage around half the rural land in England and Wales and operate more than 250 different types of businesses. We help safeguard the interests of owners of land, and all those with an economic, social, and environmental interest in rural land.

Question 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?

1. No. The five-year land supply is a crucial part of enabling housing delivery in rural areas. While we are encouraged by a recognition of the importance of an up-to-date local plan and strategic policies for delivering housing, we do not believe that the requirement for a rolling five-year housing land supply should be removed.
2. In rural areas, there were ~175,000 people on local authority housing waiting lists in 2022, this is an increase from the ~164,500¹ on the same waiting lists in 2018. However, the supply of housing has decreased; since 2018 there has been a 30% decrease in the number of private rented housing available in rural areas². If need is not static, then a deliverable land supply should not be either.

Question 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)?

3. No, we do not agree. While it is assumed that local authorities will identify land which is 'deliverable' there is always a risk that sites will not be brought forward for planning or will not see homes delivered in the envisaged timescales. A buffer allows for these situations and ensures that they do not affect the authority's ability to meet housing need and delivery targets.

Question 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?

4. Measuring future supply of housing based on a past 'oversupply' is contrary to the idea that new housing should be delivered if there is housing need. Regardless of when in the plan period housing need is calculated, if a housing need is found new homes must be

¹ Government, Live Table 600 – Number of households on local authorities' housing waiting lists by district; England, 1987-2022.

² English Housing Survey, 2022

delivered to address it. Those in housing need in an area should not be disadvantaged by new housing supply being frontloaded in a plan period.

5. Proposals to take into consideration oversupply in calculating future land supply will be used to frustrate future housing delivery by constantly looking back and debating previous housing delivery figures rather than focusing on meeting current housing needs.
6. Comments that “the presumption in favour of sustainable development can result in additional development on land which is not allocated for development in the local plan or in line with local policies” are unhelpful. The presumption of sustainable development has been crucial for the delivery of smaller sites in rural areas. These sites may not have been allocated in local plans but are brought forward in rural communities where housing need is often missed or not delivered in the right places. There must be a mechanism in place to allow necessary housing to be delivered in rural areas.

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

7. It is important that undersupply is still included in calculations for the five-year housing supply so that an authority can demonstrate it is meeting community need. However, as we have detailed in our response to Question 3, oversupply should not get the same treatment in calculations.

Question 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?

8. The CLA supports the greater protection proposed for Neighbourhood Plans including extending protections from two years to five. Significant, and balanced, input from local volunteers is required to adopt a Neighbourhood Plan and therefore longevity is encouraging and could bring more plans forward.
9. The rewards of having a Neighbourhood Plan in place could be significant, but adopting a plan is resource intensive. Sufficient resource and support needs to be allocated to help create Neighbourhood Plans which are positively prepared to achieve the best social, economic and environmental outcomes for an area.
10. Neighbourhood planning does not alter the need for local planning authorities to have an up-to-date local plan in place. Local plans should be created in the first instance to set out principles of development for an area, neighbourhood planning should then be an enabler of wider strategic priorities. Neighbourhood Plans should not be used to restrict development, but to direct and enable development.
11. Proposals to afford Neighbourhood Plans protection even if the local planning authority has not met a minimum amount in the Housing Delivery Test, nor can demonstrate a minimum housing land supply, are concerning. There is guidance in the NPPF that a Neighbourhood Plan must contain policies and allocations to meet identified housing requirement. Despite the NPPF guidance, it is CLA members’ experience that Neighbourhood Plans often act as a barrier to housing delivery. If this is combined with

under-delivery by a local authority the result can be catastrophic for the viability of rural communities. In these instances, the presumption of sustainable development is incredibly important and should not be portrayed negatively as “speculative development”.

Question 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?

12. Yes. The opening chapters of the Framework should be amended to be more explicit about the important link between housing and economic development. Explicit reference should be made in the opening chapters of the Framework to the importance of economic growth, particularly in rural areas, being a core purpose of the planning system.
13. A lack of local infrastructure at present must not be a barrier to rural housing delivery. For example, public transport in rural areas is inadequate and a lack of digital connectivity can slow a rural community’s ability to grow. However, greater emphasis should be placed on what infrastructure could be delivered if development were enabled.
14. The first paragraph in Chapter Three of the existing Framework says that “succinct and up-to-date plans should provide a positive vision for the future of each area”, and Chapter Four of the Framework instructs authorities to “approach decision on proposed development in a positive and creative way”. Statutory consultees are also informed their role should be positive. The opening chapters of the Framework should be revised to open on the importance of positivity in all planning decisions. We also suggest a new National Development Management Policy for positive decision-making in our response to question 52 of this consultation.

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

15. Local housing requirements are important to ensure that the correct homes are built in the correct places. The current system does not perform adequately, meaning that often larger developments are built on the edge of existing towns and cities to meet housing need across the wider local authority area. This means that smaller rural settlements are neglected. In 2021-2022, there were 4,556 new affordable homes in settlements with a population of less than 3,000. Local authorities with a ‘rural’ classification delivered 26,105 affordable homes in 2021-2022, demonstrating that smaller settlements saw only 17.5% of total rural delivery³.

³ <https://www.gov.uk/government/statistics/affordable-housing-supply-in-england-2021-to-2022/affordable-housing-supply-in-england-2021-to-2022#:~:text=Delivery%20of%20affordable%20housing%20in%20rural%20urban%20areas,-Using%20DEFRA's%202011&text=In%202021%2D22%2C%2026%2C105%20units,as%20urban%20%5Bfootnote%20%5D>.

16. It is worrying that Green Belt is a “recognised constraint” for delivering housing need. Although important to protect our green spaces it must be made clear in the NPPF, and any guidance on Housing Delivery Tests that affordable housing can be a justifiable reason for building on Green Belt. We further address Green Belt policies at question nine below.
17. The proposed changes to the Housing Delivery Test are not appropriate. Rather, there should be a review of housing need for *all* rural settlements, then local housing targets through the Housing Delivery Test would meet the needs at a local level.
18. Smaller rural settlements are often not allocated land in a local plan as they are deemed to be “unsustainable”. However, settlements can get approval for development where the local authority is not meeting its housing supply elsewhere and if there remains a housing need. If this presumption of sustainable development is removed in local authorities where “sufficient permissions are granted”, this route for delivery in rural areas will disappear. Not only would rural areas not be allocated land, but they would also not get permissions granted if there remained a demonstrable need. It is known that larger developers sit on permissions until it is financially lucrative for them to build out. For example, Helen Morgan MP claimed at a recent APPG evidence session that Shropshire Council had granted permissions for 18,000 homes yet only 1,500 were being built a year. The presumption of sustainable development should not be removed in local authorities where ‘sufficient’ permissions are granted. The number of permissions granted does not mean that need is being met at all, let alone in the right places.

Question 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?

19. The CLA supports an expansion of the exceptional circumstances for the use of an alternative approach for assessing local housing needs. Rural areas are more likely to have a high percentage of elderly residents than urban areas⁴. These households may not be in housing ‘need’ but may want to adjust their housing situation such as by ‘right-sizing’ to a different property. We would therefore support local authorities with a high percentage of elderly residents being able to use an alternative method for calculating local housing need.
20. The guidance should be updated on what is an appropriate approach for assessing local housing needs, regardless of exceptional circumstances. Local housing need should be assessed on a local level, preferably settlement by settlement. Many CLA members running businesses in sectors like agriculture, food processing, hospitality or tourism tell us that they cannot recruit and retain staff in order to succeed and grow because of housing affordability and availability. Therefore, alternative approaches such as surveys

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https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/102881/9/Rural_population_Oct_2021.pdf

of all local businesses and their staffing needs (rather than just householders) should be available for assessing local housing needs.

21. Young people are often priced out of rural areas and these settlements often then become commuter and retirement dormitories. A CLA survey (conducted by Survation) in 2022 found that 79% agreed with the statement “A lack of affordable housing is driving young people out of the countryside.” Therefore, it is important for housing need assessments to capture those who may have already left the area. A way to capture these displaced groups could be to allow waitlists for homes, to be provided by community groups or landowners, to be included in housing need calculations.

Question 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?

22. No, we do not agree. The CLA has been supportive of Green Belt policy since its inception, but Green Belt policy has gone well beyond its original aims to counter urban sprawl and to protect the settings of towns and cities; it has become too restrictive, deeming almost all development to be “inappropriate”.
23. While we do not believe that the Green Belt should be chopped and changed in order to allow development, it must be clear that presence of Green Belt designation does not mean that an authority does not need to meet housing need or support the economic and social growth of areas within the Green Belt.
24. Green Belt land is predominately rural and much of the land is in agricultural use, but not all of any particular beauty or environmental value. Many businesses operate in the Green Belt, and they need the ability to change and grow to remain competitive. These businesses often need local housing solutions for employees. Explicit guidance should be issued by government to local authorities that a Green Belt designation is not a ban on all development in an area, but rather a ‘check’ on urban sprawl and coalescence.
25. **CLA Case Study:** A CLA member in the North came across this very problem when trying to obtain planning permission for nine affordable homes on a site adjacent to an existing village. At pre-application the site was deemed acceptable for development, yet months later, on delegated authority, the Council refused the application stating that it did not meet the Green Belt exception test. At appeal the applicant lost. This village is one of the most unaffordable in the North of England and now does not have nine much-needed affordable homes. The decision to prioritise Green Belt over affordable housing need has cost the applicant £50,000 over three years and cost the community much needed housing.
26. Proposing high density development, out of character with an area, as an alternative to sensitive and well-designed development in the Green Belt, is to woefully ignore the ambition of “building beautifully”.

Question 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?

27. As in our response to question nine, it seems counterintuitive to the ambition of “building beautifully” to allow authorities to grant permissions for developments with densities significantly out of character for an area. It is important to note that if smaller rural developments in a large number of villages were prioritised, a significant proportion of need could be met without high density development significantly out of character.

Question 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?

28. No, the CLA does not agree with removing the explicit requirement for plans to be ‘justified’.

29. The CLA is concerned that if a plan did not meet need but was ‘up-to-date’ that the presumption in favour of sustainable development would not apply. This would mean that rural exception sites which deliver much affordable housing in rural areas would not be given planning permission. Sites not allocated in local plans are hugely important for rural delivery; for example, in Cornwall between 2016 and 2019, 800 homes were delivered on rural exception sites⁵.

30. Removing the requirement for a plan to be ‘justified’ could allow local authorities to adopt plans which are unambitious for housing delivery, as they could be “effective and deliverable” but have low numbers of new housing and fail to satisfy demand. If the presumption in favour of sustainable development does not apply, then these authorities will not deliver enough homes to meet need and rural areas would be put at a greater disadvantage as they are less likely to be allocated sites in a local plan.

31. Justification of plans is an important stage for scrutinising the local planning authority’s commitment to delivering new homes in the right locations to meet need. Considering whether a plan will be “effective and deliverable” is not sufficient to protect against authorities which may be unambitious to deliver much needed housing.

Question 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?

32. We do not agree with the changes to the test of soundness, so our opinion of which plans it should apply to is not applicable.

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

⁵ <https://old.cornwall.gov.uk/media/44914769/short-term-changes-to-the-current-planning-system-oct-2020-cornwall-council-response.pdf>

33. *Not answered.*

Question 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?

34. *Not answered.*

Question 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?

35. *Not answered.*

Question 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?

36. The CLA does not agree with the new proposals to remove the five-year rolling land supply targets, or reflecting past over-supply, therefore we cannot comment on a phased approach for emerging plans.

Question 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?

37. As above, we do not agree with the proposed guidance on restraints so cannot comment on it applying to plans within the transitional arrangements.

Question 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?

38. No, the CLA does not support this. Rural areas are less likely to be granted permissions or allocated land in a local plan as they are more likely to be deemed “unsustainable” for development. In 2018 the CLA found that within 70 rural local plans, 2,154 villages were considered “unsustainable”. These villages should not be further penalised because permissions have been granted elsewhere for urban development but may never be built out. Larger developers are often accused of ‘land-banking’ until it is financially viable for them to deliver the homes, this should not mean that rural exception sites are not given permission.

Question 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?

39. No, we do not believe that any percentage of permissioned deliverable homes would be an appropriate level to “switch-off” the presumption of sustainable development.

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

40. We have no views on a robust method for counting deliverable homes permissioned for these purposes as we do not support this method being used to “switch-off” the presumption of sustainable development.

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

41. We do not agree with the changes to the Housing Delivery Test and therefore it is not applicable for us to comment at what point the changes take place.

Question 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?

42. Social rent is incredibly important, particularly in areas of high unaffordability where a social rent calculation is more affordable than an ‘affordable rent’ home. However, this would need to be implemented sensitively so that there is not a lack of diversity of new homes delivered.

43. The CLA would support a change in policy to make it easier for private landlords to deliver social rent homes and retain their ownership and management. A survey of CLA members in 2020 demonstrated that 60% let out homes at a rent below market rent, with 24% of all homes let below market rent⁶. CLA members would like to deliver more affordable homes for their communities and would benefit from these type of planning applications being given more weight in planning policies and decisions.

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

44. Yes, we believe that existing paragraph 62 could be broadened to include smaller homes (such as bungalows) suited to older people, and not just sheltered retirement homes or housing with care and care homes. Rural areas traditionally have an older population, but rural homes are less likely to be adapted for the elderly⁷ and are more likely to be larger, older, colder, and more often detached than urban homes⁸. The lack of suitable homes for the elderly in rural areas prevents those who would like to scale down to a more

⁶ NB The CLA is conducting a more up to date survey of the housing its members provide and will share the details in due course.

⁷ APPG: Rural Housing for an Ageing Population: Preserving Independence

⁸ English Housing Survey, Live Tables 2021

manageable property from doing so, as they would not be able to remain in their community, often where their family and support networks are.

Question 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)?

45. All rural settlements would benefit from a small number of new homes and so a workable small site policy is imperative. The policy as currently drafted has thus far failed to deliver enough homes in rural areas. The consultation invites comments for how small sites could be encouraged “particularly” in urban areas; this ignores the importance of delivering small sites in rural communities. Government should revise this to acknowledge small sites in rural areas.
46. CLA members have the ability to bring forward small sites in rural communities including for affordable housing on rural exception sites. However, they have found that local planning authorities often have very onerous processes for granting rural exception sites permission with no guaranteed outcome.
47. **CLA Case Study** - One CLA member has achieved planning for a rural exception site delivering seven homes (five affordable). The member had wanted to deliver a zero-carbon scheme but after much back and forth with the planners and significant funds invested, the planners opposed the designs due to the site’s rural exception site location. The member hopes to go back to vary the permission. This is an example of the current small site policy hindering the development of high-quality affordable homes in rural areas.

Question 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?

48. There are a number of changes to strengthen policy which could be made to deliver more affordable housing on small sites in rural areas.
49. Firstly, the conversion of agricultural buildings through Class Q permitted development should be extended to National Parks and Areas of Outstanding Natural Beauty. Data from the Office of National Statistics shows that house prices within National Parks are higher than prices outside of Parks⁹.
50. Secondly, the “strong reasons” for not meeting the targeted 10% small sites delivery should be defined in the revised Framework – most rural authorities will have small sites available, and designations such as green belt should not be a reason why small sites cannot be found. There must be fully justified reasons why sensitively designed housing

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<https://www.ons.gov.uk/peoplepopulationandcommunity/housing/adhocs/12848housepricetoworkplacebasedearningsratiolassplitbynationalparksengland2019>

for affordable housing, for an identified need, is not possible, and these reasons should be defined as far as possible in the Framework.

51. Thirdly, paragraph 69(a) of the Framework should be amended to request that local authorities identify sites for rural housing delivery through reviews of rural settlement boundaries. It is important that local authorities are encouraged to look to deliver small developments on rural exception sites and that this method of delivery is given the same weight as delivery on brownfield. There is an existing reference to “brownfield registers” in the paragraph; however only 13% of brownfield sites are in rural areas, and only 4% are on Green Belt¹⁰. Brownfield delivery is not an option in most rural settlements, so authorities must be required to look at other small sites.
52. Finally, rural small sites are often impacted by their proximity to heritage assets. Existing paragraph 194 in the historic environment chapter should be amended because its current wording is not producing adequate information with heritage applications. Asking for proportionate analysis of heritage significance, and analysis of the design and impact of the proposals, would:
 - a. Help applicants (who will be less likely to waste time on abortive proposals),
 - b. Help under-resourced local authorities (who will have a much better information basis for decision-taking),
 - c. improve heritage outcomes on the ground.
53. At the same time, the requirement for a ‘Design & Access Statement’ should be dropped for listed building consent applications, as it was for all other non- ‘major’ applications after a public consultation in 2013.
54. The planning process is disproportionately risky and costly to the applicant and authority on small sites, and so even if identified, sites may not be brought forward. To address this issue, the CLA with Rural Housing Solutions has developed the ‘Planning Passport’ - please see our response to Question 27 below.

Question 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?

55. Yes. This would enable more sites to be brought forward for affordable housing.
56. However, the definition needs to be amended to be wider than just community-led developers and almshouses. A unique characteristic of rural areas is that an estate or other rural business may own a significant housing portfolio, including affordable housing. These groups should also be able to deliver additional affordable housing without becoming a Registered Provider – they have significant experience with being a landlord and offer a more local approach to delivering affordable housing than perhaps

¹⁰ NHF Briefing: Mapping brownfield land in England, October 2019.

some absent, large, registered providers. As established landlords and entities, these groups are likely to have more resource and expertise than community-led developers to deliver homes, they could give assistance to these groups or operate alone. For this to occur the definition should be amended to include private landowners and businesses as well as community-led developers and almshouses.

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

57. Yes, as mentioned in our response to Question 25, we have developed the 'Planning Passport' which is a two-stage process to be used on rural exception sites to deliver more affordable housing.
58. Stage One of the 'Planning Passport' is solely concerned with the location of the site, the amount of development and the tenure mix. If approved the scheme is given Planning Permission in Principle.
59. The site then proceeds to Stage Two, Technical Details Consent, which if approved effectively gives full planning permission to the scheme. To enable the 'Planning Passport', the permission in principle should be extended to allow up to 15 homes on rural exceptions sites (where the majority of homes are affordable).
60. The 'Planning Passport' process draws heavily on the existing Planning Permission in Principle approach and elements of Prior Approval Matters for development allowed under Permitted Development Rights. The 'Planning Passport' would be available to use in all parishes with populations of 3,000 or fewer, including those in National Parks and Areas of Outstanding Natural Beauty. The CLA and Rural Housing Solutions have shared greater detail of the 'Planning Passport' proposal with the Development Management team at DLUHC.

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

61. It is not solely community groups who have the ability to deliver affordable housing on exception sites. Rural landowners are key to the provision of rural housing but rented property is currently considered an investment asset and therefore, on death, will be subject to inheritance tax. This is a barrier to landowners delivering new affordable homes, as they may not want to increase the inheritance tax faced by their families, especially where long-term financial returns are likely to be marginal.
62. To address this, the CLA proposes a conditional exemption for rented affordable housing, which would have the effect of postponing the payment of inheritance tax for as long as the housing remains let at an affordable rate. This proposal can be achieved by amending the definition of designated property in section 31(1) Inheritance Act 1984 to include affordable rented property.

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

63. The way in which local authorities currently assess the sustainability of settlements is outdated and harmful to rural communities. National planning policy and guidance should be amended so that rather than judging a settlement solely on what services they or their neighbouring settlement have, the assessment should consider what services could be supported if development were enabled.
64. **CLA Case Study** - One village where a CLA member lives has a local village school where the building is leased from the CLA member. This school is at threat of closure. The CLA member has provided much affordable housing in the village over the past 40 years, but enabling more housing in the surrounding villages would bring in younger families whose children would attend the school and keep it open.
65. In addition, digital connectivity must be given greater weight in the sustainability assessment, not only for its role in connecting communities to services which may have been lost, such as a bank or a doctor's surgery, but also for its role in enabling people to work and run businesses from home as well as the social and well-being benefits. New development could actually unlock investment in infrastructure.
66. As stated in our response to question 8 national planning guidance should also be updated to allow innovative ways of calculating housing need. This would help community-led developments, but also businesses who would like to bring forward development. For example, if a community group has a waiting-list for homes, this should count towards housing need, or if a business has an open position for which they can't recruit due to lack of housing availability this should also be counted as housing need.

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

67. No. This suggestion is flawed as planning permission is attached to land, and not an applicant. It is also unclear whose past behaviour could be called into question: the landowner, the builder, the developer, the promoter, or someone else. Furthermore, it is not clear whether a poorly designed and therefore undeliverable application would lead to the applicant being judged as having 'poor behaviour'. It is also not clear whether applicants not building out applications would be judged as having 'poor behaviour'. This proposal also opens the possibility of planning applications being influenced by previous disagreements between applicants and authorities, and not judged on the merits of the application.
68. 'Poor behaviour' is subjective, so it is unfair to allow this to be taken into consideration. This proposal should be dropped.

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

69. The CLA does not agree with proposals to take into considering an applicant's past behaviour into decision making so this question is not applicable.

Question 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?

70. Firstly, we do not agree with proposals to allow local planning authorities to have discretion to decide whether to entertain future planning applications made by developers who failed to build out earlier permissions granted on the same land. There are many reasons why an existing permission might not be delivered. For example, land should not be excluded from future applications because of onerous conditions making previous permission(s) undeliverable.
71. Secondly, we do not agree with the three build out policy measures proposed. The first proposal to publish data on developers over a certain size lacks detail, for example how will size of developer be set - perhaps turnover or number of houses delivered - but without this clarity we cannot support it. The second proposal creates more work for both developers and local planning authorities, and tenure should be assessed on need, rather than absorption rate. Finally, the third proposal to make delivery a material consideration where proposed build-out rates are too slow is not practical. There are many reasons for sites to be phased, and this proposal allows too much subjectivity and could lead to time-consuming discussions between applicants and planners.

Question 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?

72. The CLA supports new Design Codes as they would give applicants more certainty on what a local planning authority will accept, and what the ultimate cost of building the development might be if certain materials are mandated.
73. However, we do not agree that permitted development rights should be amended so that design or external appearance prior approvals take into account design codes where they are in place locally. There is a concern that if design codes specify height, form and density, this could exclude many disused buildings from conversion.
74. In addition, the last line of the table in Chapter 12 in the consultation refers to conserving and enhancing the historic environment. The NPPF should be amended to make it clear that the NPPF 'conservation' approach applies to all heritage assets, including those for which the "duty to have special regard" is being extended to in clause 95 of the Levelling Up and Regeneration Bill. Without this amendment, the extension of this duty to scheduled monuments, registered parks, and world heritage sites is likely to be assumed by local authorities to be a radical change which requires different decisions to be taken, potentially making these assets 'no-go-areas' for change. The survival of heritage assets depends fundamentally on their being valued, and financially viable. That is the reason for the 'conservation' approach at the heart of the NPPF historic environment chapter. If assets cease to be valued and viable because the interpretation of policy turns them into 'no-go-areas', they will be at risk.

Question 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?

75. No. “Beautiful” is too subjective a term to include in the Framework and could lead to disagreements between an applicant and the local planning authority which would ultimately delay permissions being granted.

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

76. No, we do not agree. A local authority already has the capability to set planning conditions for use of certain materials. Local planning authorities do not have the resource or expertise to set higher standards or enforce breaches.

Question 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?

77. Yes.

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

78. The CLA does not support small scale nature interventions being included in the planning system. However, it would seem sensible to restrict the use of artificial grass in new developments. The only role of national planning policy should be to support the infrastructure required to deliver nature-based solutions. Instead of small scale nature interventions in national planning policy we would support land manager advisory boards to enable meaningful engagement with stakeholders.

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

79. We disagree. High value farmland suitable for food production should not be given greater weight in the Framework. While food security is important, best and most versatile land is already protected from development. Additionally, where indicative maps are insufficient then assessments are often required at field level. As agricultural practices modernise, with better technology, vertical farming and modern horticulture, the existing land ratings may not be an appropriate method of assessment in the future.

80. Additionally, there are vast swathes of rural areas where most land has a land classification of grade 1, 2 and 3a (Best and most versatile) for agricultural value. If this land was given greater protection from development in the framework there are rural

areas which may never see any more development. For example, most land between London and Lincolnshire is rated at least grade 3a, and opportunities for brownfield development is limited to towns and cities. These rural areas must not be left behind. It is also worth noting that some of the food production which the government seeks to protect depends on staff, who need to be housed, as well as on the availability of suitable commercial premises for storage and processing. Both of these requirements could be jeopardised by the proposal.

81. In conclusion, valuable agricultural land has sufficient protection in the Framework as currently drafted, so it should not be given additional protection.

Question 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?

82. A carbon impact assessment should include:

- a. embodied carbon (carbon emitted in the construction of a building and its materials),
- b. operational carbon (carbon emitted through the building's use, maintenance, repair, refurbishment, and end-of-life dismantlement),
- c. and carbon emitted through additional activities that take place as a result of the planning decision (e.g., people driving to a new recreational facility).

83. Such an assessment should apply to all planning decisions with carbon impacts, including retrofitting. Examining the carbon emissions committed through planning decisions at different lifecycle stages is crucial to avoid creating stranded assets in a low-carbon economy, with disadvantages to all parties.

84. The thrust of Question 39 - "all measurable carbon demand" - implies a full cradle-to-grave lifecycle analysis. Care needs to be exercised to ensure that conducting and submitting a cradle-to-grave impact assessment is not disproportionately burdensome. Methodologies and conversion factors for conducting carbon impact assessments should be standardised, at least within a Local Authority, to streamline the application process and ensure it is fair and transparent. If it were not possible to simplify lifecycle carbon impact assessments, there could be an exemption for SME builders.

85. Embodied carbon can be estimated via the embodied carbon factor of the materials used in construction. An estimate of embodied carbon also needs to include the transport of materials to the construction site, wasted materials, and carbon emitted by machinery and workers during construction.

86. The detail of these calculations is outside our expertise, but we are aware that a great deal of work has been done in this area by many organisations, including the London Energy Transformation Initiative and the Royal Institute of Chartered Surveyors, so implementation should not be difficult.

87. Operational carbon emissions can be estimated through expected consumption of electricity, heating, and cooling, plus the carbon released as a result of the building's existence. In general, Scope 3 emissions (indirect emissions) are harder to measure. The CLA suggests that the final policy clarifies what level of detail is required to assess maintenance, repair, refurbishment, and end-of-life dismantlement, and that there is standardised guidance on how to treat Scope 3 emissions.

Question 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?

88. There may be certain areas of land which are best suited for supporting climate change adaptation through the use of nature-based solutions. However, land which is seasonally or permanently inundated for climate change adaptation should be properly compensated through a robust financial mechanism within planning policy.

89. Historic washland agreements should be revisited in light of how climate change has changed rainfall patterns.

90. Assessing climate adaptation and biodiversity net gain requirements will be added burdens on planning authorities who will require additional personnel and ecological expertise. Planning authorities should have the capacity to evaluate biodiversity gain and climate adaptation plans. There is a risk of an unequal playing field with large geographic disparities. Central government support, funding and guidance is needed to avoid even slower planning decisions and a system incapable of delivering good outcomes for either nature or development.

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

91. Yes. Enabling consent for re-powering of turbines would enable landowners who have onshore wind sites already to prolong generation and the benefits it provides over a longer timescale.

92. When 'Footnote 54' was added to the Framework it effectively blocked onshore wind in England. Some rural landowners are keen to deliver onshore wind either for low-carbon self-supply, to supply their local communities or for export to the grid. However, we do have concern that Local Planning Authorities do not have the expertise to process repowering applications for onshore wind. Therefore, we would advocate a package of training measures to ensure lack of knowledge does not essentially block onshore wind in the future.

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

93. Yes. National planning policy has effectively blocked onshore wind in England since 2015 when 'Footnote 54' was added to what otherwise was positive and supportive policy in existing paragraphs 155 and 158. Footnote 54 effectively says that new onshore wind energy developments (other than repowering existing sites) are not acceptable unless they are:
- in an area identified as suitable for wind energy in the local plan; and
 - it can be shown that the impacts identified by the local community have been addressed and the proposal has their backing.

94. With many local plans not adopted and the tendency of wind turbines to polarise local opinion, the inclusion of footnote 54 effectively blocks new onshore wind developments. But circumstances are now very different to when footnote 54 was added in 2015. Net Zero is now written into law, many local authorities have declared a 'climate emergency' and world events have pushed up energy prices significantly. Consumers and communities may be supportive of wind energy developments in their area, particularly if there were tangible community benefits, such as lower domestic energy bills, as a result. Landowners may be best placed to realise the potential for wind energy either for self-supply, local community supply or export to the grid. The changes proposed would enable opportunities like these to be seized.

Question 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?

95. We do not agree. Whilst the new footnote 62 provides some scope for approval of onshore wind where there is demonstrable community support, the tests remain unclear and the scope is limited. New footnote 63 effectively retains the current presumption against onshore wind development, except in extremely limited and prescribed circumstances. The combined effect will mean only very limited change from the current situation, which will frustrate the achievement of Government net zero ambitions.
96. The proposed requirement for *all* onshore wind proposals – even single, small turbines used by a farm or rural businesses to decarbonise - to 'have community support' as well as to 'have planning impacts identified by the local community satisfactorily addressed' – is overly restrictive and will unnecessarily prevent small wind projects from coming forward.

Question 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?

97. We support the policy aim of this proposed paragraph 161, to ensure that the Framework and new National Development Management Policies' wording effectively supports the decarbonisation of the building stock. However, three changes are needed to the detail.
98. Firstly, the final sentence on conservation areas and listed buildings is ambiguous. As drafted, it would be widely interpreted as meaning that they should essentially be excluded from the policy in this paragraph; this would mean works to listed buildings

would be strongly discouraged in practice. Additionally, many 'heritage assets' within the existing NPPF glossary definition are not listed buildings or in conservation areas, so this draft paragraph could encourage decision-makers to ignore their heritage significance in decision-making. The draft paragraph could therefore unintentionally discourage the decarbonisation of heritage assets which are listed or in conservation areas, while at the same time encouraging harmful works to other heritage assets which are not.

99. To solve the above, the last sentence should be amended to read "This policy includes listed buildings, conservation areas, and other heritage assets, but changes to heritage assets should be considered alongside the policies in chapter 16..."
100. The same point should be made in Chapter 16, by adding to paragraph 200 a new point: "d) the desirability of decarbonising heritage assets, where consistent with their conservation".
101. Secondly, the narrow term "energy efficiency" potentially promotes high-carbon, short-life works like triple glazing. It should be replaced by the wider term "decarbonisation". This change would be consistent with the core policy objective in Chapter 2 of "Better environmental outcomes", including "contribut[ing] to climate change mitigation...", and with the aim in Chapter 7 paragraph 13 of "embed[ding] a broad form of carbon assessment".
102. Thirdly, the words "particularly large non-domestic buildings" could imply that other buildings are not a priority. The word "particularly" should be replaced with "including".
103. It is also important that, alongside the review of national planning policy, that the consent system is simplified, as the Energy Security Strategy suggests, to make decarbonisation works less difficult. Additionally, the CLA calls for an urgent review of Permitted Development Rights so that they are updated to accord with modern less-obtrusive renewables technologies, including electric heat pumps.

Question 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?

104. The CLA supports fast adoption of local plans. We support limited overlap of old plans and new plans so that there are not arbitrary disadvantages of dealing with an authority using an older style plan. However, it should be clear that National Development Management Policies apply to old and new style plans.

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

105. In theory, we support a transitional arrangement, however, it should be noted that under the proposed timeline a planning authority could technically have an old-style plan in place until 2033: if preparation of a new plan can begin until December 2031 and plans are anticipated to take two years to implement. A transitionary period of ten years will be of little comfort to those living in local planning authorities which have consistently failed

to deliver through their planning process and who are disadvantaged by the existing system.

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

106. Yes, we agree with the proposed timeline that Neighbourhood Plans submitted for examination after 30 June 2025 will be required to comply with the new legal framework. However, existing Neighbourhood Plans should not benefit from the increased protections proposed in Chapter Three of this consultation.

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

107. Yes, we agree with the timeline proposed for SPDs to expire as we believe this will act as an incentive for local planning authorities to adopt a new-style plan.

108. There is a concern that the transitional arrangements for development plans and SPDs will cause local planning authorities to pause local plan adoption until they are required to by the legislation. The CLA has already received reports that local planning authorities have paused adopting local plans until the outcome of the revised architecture is enacted through legislation and clear guidance has been issued. Therefore, the new arrangements should be adopted as soon as possible.

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

109. Yes, in particular we support the supremacy of new National Development Management Policies (NDMPs) over local plans in instances of conflict. This is important not only in cases where local plans may be out of date, but also so that communities with inadequate local plans which may be unambitious in delivery are offered protection at a national level.

110. It is important that NDMPs do not only feature in decision-making at appeal stage, which is too late; plan-makers and decision-makers must be required to assess applications against local development plans and NDMPs in the first instance.

111. Our response to question 9 of this consultation should be noted at this point, as the consultation proposes to include protection of the Green Belt as an NDMP, but the purpose of Green Belt policy needs to be reviewed before this happens to prevent scope-creep which results in a lack of rural housing delivery.

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

112. We have no other principles to inform the scope of NDMPs.

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

113. Yes. For example, when introducing new NDMPs and revising the NPPF there should be explicit reference to the Planning Practice Guidance (PPG). The current NPPF makes no explicit reference to the PPG, its own guidance. This matters greatly, because many people are unaware of the PPG, and it is impossible to interpret much of the NPPF without it. As an example, the NPPF historic environment chapter contains two fundamental core terms, 'public benefit' and 'substantial harm', which are not defined in the NPPF. They are defined in the PPG, but some users seem to be unaware of that, and therefore inconsistency of definitions leads to inconsistent or malign outcomes.

Question 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?

114. Yes, the National Development Management Policies could be widened to include other issues which have in the past prevented development or caused confusion across planning authorities.
115. Firstly, it is crucial that there is an NDMP which ensures planning decisions are made from a positive attitude, to enable rather than hinder development. See our response at question 6 for the importance of positivity in planning decision-making.
116. Secondly, there should be a new NDMP to ensure that economic contribution of all types of development (including new housing) is taken into consideration. According to Defra statistics, the rural economy is currently 19% less productive than the national average, and closing this gap could add an estimated £43 billion to the economy. Planning plays a huge role in growing businesses and the economy. However, in her evidence to the APPG for the Rural Powerhouse Sally Shortall, Duke of Northumberland Professor of Rural Economy at Newcastle University, described the planning system as "contribut[ing] to the decline of remote and rural areas". A new NDMP which requires economic contribution to be a material consideration in planning decisions and planning processes would encourage sites which contribute to economic growth, whether housing or commercial development, and would ensure that the planning process does not negatively impact the viability of applications.
117. Thirdly, the treatment of planning applications related to minerals should be elevated to have NDMP status. The new NDMP should be clear that applications for mineral extraction should be assessed against mineral reserves (those that can be economically mined) and not mineral resources (the total mineral available).
118. Finally, the consultation suggests that local policies could be developed in areas which have unique issues such as high student numbers in university towns/cities. However, this section of the consultation fails to recognise the unique aspects of rural communities (with the exception of a mention of subsidence in coastal areas). Rural communities have unique challenges but significant opportunity to grow. Local planning authorities should

therefore be encouraged to have rural-specific planning policies to encourage growth, in place of the stagnation which is experienced now.

Question 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?

119. We have two main suggestions.
120. Firstly, the government could better achieve its levelling up missions by expanding the use of Permission in Principle to rural economic development. CLA members have many examples of excessive up-front costs for planning applications that were subsequently refused.
121. **CLA Case Study** - A planning application for an anaerobic digester plant incurred £300,000 of up-front costs but was refused. Another CLA member spent over 20 years navigating the planning system to convert listed farm buildings to commercial office space including spaces dedicated to start-up businesses.
122. Extending the Permission in Principle to rural economic development would encourage investment and deliver an innovative and broader economy in rural areas by granting permission in principle for a development proposal and thus incentivise the applicant to pull together the information required at a technical consent stage. Pushing these up-front costs back to a second stage would de-risk planning for businesses, reduce time spent collating applications, and could unlock a flood of new investment in rural areas.
123. Secondly, when making use of the Part 3 Class Q rights (change of use and conversion of a farm building) the farmer relinquishes, for a period of ten years, the use of some of their permitted development rights under Town and Country Planning (General Permitted Development (England) Order 2015 (as amended)) (GPDO) Part 6 to erect new agricultural buildings or extend or alter existing buildings within the established agricultural unit. In these circumstances, full planning permission is required. There is a similar restriction under Part 6 Classes A and B restricting the use of Part 3 Class Q for a period of ten years if a new agricultural building has been erected or extended/alterred. The Government put these clauses into the GPDO to prevent abuse of the relevant rights. However, the rapidly changing nature of agriculture, caused by both Brexit, Covid-19, the war in Ukraine, and the cost-of-living crisis may well lead to farm consolidations and new diversification opportunities. In order to provide additional flexibility, encourage investment and increase productivity in agricultural businesses, it would be reasonable for the restriction period to be shortened from ten years to five years under both Part 3 Class Q and Part 6 Classes A and B. This would boost rural economic development by allowing both new or extended agricultural buildings and/or the delivery of more rural-based dwellings in closer succession.

Question 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?

124. The Framework should include specific reference development in National Parks, AONBs and our other designated landscapes. These areas are at risk of being excluded from the Levelling Up agenda as they are seen as areas to be protected, this often means they are preserved in aspic, as well as wrongly seen as uniformly affluent. The NPPF should contain a policy which accepts the need for new housing in designated landscapes and promotes the conversion of disused buildings.
125. The consultation specifically references developments such as science laboratory facilities, however, fails to recognise developments which may support industries in rural areas such as agriculture and tourism. The Framework should explicitly refer to the need to support rural development, particularly where enabling a diversification opportunity which would support a rural business, particularly agricultural businesses after the removal of their Basic Payments.

Question 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?

126. The CLA is very concerned about the focus on brownfield land in city and town centres for addressing housing need. While it is important that our urban cores are gently densified, this should not detract from the importance of delivering housing in rural areas.
127. Only 13% of brownfield sites are in rural areas and only 10% of homes that could be delivered on brownfield would be in rural areas. Therefore, it is important that the Government in addition to brownfield delivery recognise the importance of rural housing delivery, even if this is on a 'green' field.

Question 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?

128. *Not answered.*

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

129. *Not answered.*

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

130. *Not answered.*



For further information please contact:

Avril Roberts
Property and Business Policy Adviser
CLA, 16 Belgrave Square
London SW1X 8PQ

Tel: 020 7235 0511
Email: avril.roberts@cla.org.uk
www.cla.org.uk

CLA reference (for internal use only): NPPF/MAR23/Consultation
