

23rd September 2024

Planning Policy Consultation Team
Planning Directorate – Planning Policy Division
Ministry of Housing, Communities and Local Government
Floor 3, Fry Building
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London
SW1P 4DF

Proposed reforms to the National Planning Policy Framework and other changes to the planning system

Dear Sir / Madam

I am pleased to set out DAC Planning's response in relation to the above consultation.

About Us

DAC Planning is a professional planning consultancy which provides advice and support to local authorities, local communities and public sector bodies nationally. Combining our experience in local government with our expertise in consultancy, we understand how planning works in practice.

We are experts in supporting the production of Development Plans and we are firm believers that growth should be plan-led wherever possible to ensure that developments are sustainable, deliverable and centered around the needs of the communities they serve.

Since 2019 we have provided Local Plan support to well over 100 local authorities nationally on behalf of the Planning Advisory Service. During this time we have developed a range of best practice to support local authorities in producing plans, including the widely used PAS Local Plan Route Mapper and Toolkit. More recently we have provided advice and recommendations to Councils around planning reform and transitional arrangements. We have an extensive appreciation of the challenges that local authorities face in putting in place up to date local plans.

Context for Our Consultation Response

DAC Planning has provided extensive responses to a range of consultations undertaken by the Government in relation to proposed planning reform over recent years. These include our response to the Planning White Paper in October 2020 and more recently our response to the LURB Consultation on the Implementation of Plan Making Reforms in October 2023. As experts in local plan production, we also submitted a response to the Ministry on the pre-tender market engagement in relation to Local Plan Intervention Support earlier this month.

In response to this consultation we have provided extensive inputs into the response submitted by the Royal Town Planning Institute. As a result, we do not seek to replicate detailed responses already set out by the RTPi

in our response. Instead we wish to make some specific and important observations founded on our particular experience and expertise in plan-making which we trust will assist in finalising the revised NPPF.

DAC Planning Response

In general terms DAC Planning is supportive of the proposed changes to the NPPF. We recognise the acute housing shortages being experienced across the country and we understand the disastrous implications that these have for the economy and wider society. However, we believe that, as drafted, the proposed changes to the NPPF could inadvertently lead to far greater levels of speculative development (development that would ordinarily be contrary to the adopted Development Plan) being delivered across the country outside of the 'plan-led' system. As a result, the proposals have the potential to undermine and erode the primacy of the development plan in shaping future growth. We also feel that some of the proposed new wording as drafted would lead to considerable ambiguity in decision-making, which could lead to an increase in 'planning by appeal'. The proposed changes have the potential to inadvertently divert scarce local authority resources away from plan-making due to a considerable increase in speculative planning applications and subsequent appeals.

We feel strongly that local authorities should be encouraged and incentivised to prioritise plan-making as a way of boosting the housing supply in sustainable locations through the plan-led system. As drafted, the proposals appear to increase the 'stick' for local authorities that do not have an up-to-date plan in place and do not do enough to provide a 'carrot' to incentivise them. In our experience local authorities desperately need and crave clarity on the 'rules' and deadlines for plan production. If plan-making remains too difficult and uncertain, there is a considerable risk that many may simply decide to 'down tools'. Through our work over recent months we have witnessed a significant down turn in plan-making activity across the country coinciding with the publication of the proposed changes to the NPPF. Publication of the revised Framework will inevitably improve this situation by providing clarity, but a period of stability together with additional support for local authorities is essential if real sustained progress is to be made towards comprehensive up to date local plan coverage nationally. That being said we appreciate that the challenge of providing stability is not helped by the pending emergence of wider reforms to the planning system arising from the Levelling Up and Regeneration Act.

In our opinion there is a real need to look again at the detail of some aspects of the proposed changes to the Framework. The remainder of our response summarises a number of specific issues that could inadvertently hamper plan-making and potentially delivery, with reference to the proposed new paragraph number included in the tracked change version of the NPPF published as part of the consultation:

Green Belt and Grey Belt

- We support the need to reconsider how Green Belt land should be utilised in the future to support the urgent need for more homes, but we strongly feel that this matter should be determined through expedited local plans. The release of Green Belt land is a matter of strategic importance for relevant local authorities and their neighbours, and it should not be determined in an ad-hoc manner through

- decision making processes. The release of Green Belt land in an ad-hoc manner has significant potential to undermine existing adopted and newly emerging local plans.
- New paragraph 142 – the proposed wording “*authorities should review Green Belt boundaries and propose alterations to meet these needs in full, unless the review provides clear evidence that such alterations would fundamentally undermine the function of the Green Belt across the area of the plan as a whole*” is unclear and too subjective. This is a key proposed change and plan makers need to be completely clear how this should be determined in practice.
 - How will a local authority determine whether or not the proposed alterations to the Green Belt would fundamentally undermine the function of the Green Belt across the area as a whole?
 - What evidence would a local authority be expected to have to justify its decision that exceptional circumstances do not apply in this context? Will Green Belt Reviews be responsible for determining whether the release of any Green Belt land at all would undermine the function of the Green Belt? It is difficult to know how you could evidence something which is essentially a subjective planning argument.
 - If it is anticipated that Green Belt Reviews are to form the primary evidence to inform such decisions then there needs to be clear guidance on how a Green Belt Review should be undertaken. At the moment there is no consistency in approach, and the testing of the robustness of a Green Belt Review can only occur at local plan examination or appeal. By this point it is too late in the process. It is imperative that Green Belt Reviews are undertaken on a consistent and robust basis across the country if they are to play such a key role in informing and determining such matters.
 - Many local authorities with Green Belt designation may determine that exceptional circumstances do not apply because any release of Green Belt land would, in their opinion, fundamentally undermine the function of the Green Belt despite the existence of unmet needs.
 - How would the Framework ensure that local authorities adjacent to one another and both with unmet needs would reach a consistent judgement on this point? The duty to cooperate requires them to work together positively, but if they fundamentally disagree on this point there is no mechanism for arbitration except for the local plan examination. By this point significant time and resource has been used and it is therefore in our opinion too late.
 - New paragraph 152 – the proposed wording “*and the development would not fundamentally undermine the function of the Green Belt across the area of the plan as a whole*” is unclear and too subjective. This is a key proposed change and both applicants and decision makers need to be completely clear what this means.
 - How will a local authority determine whether or not the proposed development fundamentally undermines the function of the Green Belt across the area as a whole?
 - What evidence would a local authority be expected to have to justify its decision to refuse an application on this basis? Will Green Belt Reviews be responsible for determining whether the release of any Green Belt land at all would undermine the function of the Green Belt? It is

difficult to know how you could evidence something which is essentially a subjective planning argument.

- If it is anticipated that Green Belt Reviews are to form the primary evidence to inform such decisions then there needs to be clear guidance on how a Green Belt Review should be undertaken. At the moment there is no consistency in approach, and the testing of the robustness of a Green Belt Review can only occur at local plan examination or appeal. By this point it is too late in the process. It is imperative that Green Belt Reviews are undertaken on a consistent and robust basis across the country if they are to play such a key role in informing and determining such matters.
- Many local authorities with Green Belt designation may determine that the release of Green Belt land would, in their opinion, fundamentally undermine the function of the Green Belt. This binary decision would then be tested at appeal. It would be prudent for further clarity to be provided to guide robust and consistent decision making on this point.
- New paragraph 152 is likely to lead to a significant increase in planning applications on land within the Green Belt. We are concerned that this in turn may lead to a large increase in planning appeals, and that these would detract local authority officers from plan-making work, which in turn could slow down plan making.
- New paragraphs 143 and 144 – As drafted these paragraphs appear to indicate that local authorities should seek to obtain agreement from neighbouring authorities to accommodate unmet needs (after exhausting all other possibilities) before determining whether or not exceptional circumstances apply. If their local housing need has increased significantly under the revised standard method and they cannot get agreement from their neighbours to accommodate any unmet needs, does it then follow that they should release enough Green Belt land to meet their needs? This assumes that they have made the judgement that the proposed alterations would not fundamentally undermine the function of the Green Belt across the area. This may result in either a very substantial release of Green Belt land where needs that would otherwise be left unmet will have to be accommodated, or alternatively the local authority may determine that such a scale of Green Belt release is simply too difficult. Our fear is that some local authorities could simply stop their plan-making because it will be impossible to gain political support locally for such a scale of Green Belt release.
- New paragraph 155 – the positive intent of the paragraph is acknowledged, but as drafted this would potentially lead to developments with high levels of affordable housing being located in the Green Belt in locations away from employment, services and facilities. This may not be sustainable or desirable. Equally, local authorities will not be in a position to know what necessary improvements to local or national infrastructure will be in cases where Green Belt sites are being permitted through development management as local authorities will not have incorporated such sites in their Infrastructure Delivery Plans. This will lead to a situation where local authorities (and infrastructure providers) will have to be reactive to speculative proposals and infrastructure planning will be ad-hoc. It is unlikely to be informed by strategic modelling or consideration of wider needs – instead leading to a whole range of piecemeal solutions. This could have particularly negative implications for the creation of sustainable and cohesive communities in the future. In addition, ad-hoc infrastructure planning of

this nature is likely to be less efficient and effective, and could undermine the timely progression of local plans where infrastructure planning resources need to be diverted to development management processes, or the cumulative impact of schemes in the Green Belt could undermine the work being undertaken to support and inform the emerging local plan.

Prematurity

- New paragraph 51 - Linked to the above, we strongly feel that the wording of paragraph 51 in relation to prematurity should be strengthened to account for circumstances whereby a number of speculative planning applications have the potential to undermine the plan-led system. As currently written, prematurity cannot be used as a reason to legitimately refuse planning permission no matter how many speculative schemes may be coming forward outside of the plan-led system unless a draft plan has been submitted for examination. It is important to recognise that schemes coming forward in areas outside of those preferred for inclusion in an emerging local plan can cumulatively or individually (if large enough) scupper the work being undertaken by a local planning authority to progress a local plan. Speculative planning proposals which contradict and have potential to undermine the emerging Local Plan spatial strategy should be capable of being considered to be premature by the local planning authority if we are to work towards greater coverage of up-to-date local plans across the country.

Infrastructure planning

- We strongly feel that the NPPF as written fails to recognise the vitally important role that Infrastructure Delivery Plans or Strategies should play in informing and supporting local plans. This is a significant omission from national planning policy. Section 3 of the document 'plan-making' should include a sub section setting out that emerging local plans should be supported by up to date and robust infrastructure plans that set out the infrastructure that is required to support planned growth and how this infrastructure is to be funded and delivered.
- The role that infrastructure delivery plans or strategies should play in supporting decision making should also be clearly acknowledged to ensure that the development management process utilises the same evidence base as plan-making. This would help to facilitate a consistent approach across plan making and decision-making, whilst also acting to clearly guide applicants to refer to this evidence.

Viability

- New paragraph 35 - this paragraph remains unchanged. However, it is vitally important for the Framework to provide greater clarity on how local authorities are expected to demonstrate that policies will not undermine the deliverability of the plan. At present local plans are supported by viability assessments which consider the theoretical viability of typologies of development types and specific larger sites in accordance with Planning Practice Guidance. However, the Framework should acknowledge that viability (and therefore deliverability) will change over the course of the plan period

reflecting changing circumstances and market conditions. At the moment local authorities are faced with trying to demonstrate that a local plan will be viably delivered at the time of the examination of the plan. This fails to recognise that the plan itself may be predicated on creating new markets or on receiving public funding which itself will only happen as the plan progresses. This needs to be clearly recognised in national policy to ensure that local authorities are not disincentivised to maximise brownfield land for regeneration which may be considered unviable at the time that the plan is produced.

Strategic Planning

- We strongly support the eminently sensible return of strategic planning and welcome the additions to section 3 of the Framework.
- Our primary concern at this stage, recognising that further reforms are to be introduced at a later date, is that in many areas of the country the effective mechanisms required to implement new paragraph 27 simply do not exist.
- We suggest that further guidance is required on how strategic planning mechanisms should be achieved across areas of the country not already covered by combined or mayoral authorities. Will local authorities be expected to voluntarily reach informal agreement on appropriate geographies which enable planning with “*other bodies where a strategic relationship exists*” or will further guidance be provided on how such informal arrangements should be arrived at? Whilst we appreciate that every area of the country is different and some have more advanced partnership working arrangements than others, there is a risk that a lack of clarity or support for implementing these arrangements in the short term could considerably hinder plan-making, particularly in areas which will see significant increases in the level of local housing needs to be planned for.
- We suggest that it would be beneficial to support local authorities to meet their strategic planning responsibilities in the short term (prior to the introduction of more formalised strategic planning mechanisms) by providing guidance and potentially direct support. This could include utilising resources at the Planning Advisory Service or at a county council level to try and leverage appropriate solutions where potential bottlenecks are identified between nearby plan-making authorities.

Transitional Arrangements

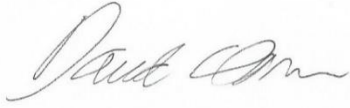
- We welcome the promise of additional funding for those LPAs that are required to undertake additional work on their plans and community engagement around them.
- Overall, the transitional arrangements are complex and difficult to interpret. We suggest that the final arrangements should be very clearly communicated. It may be helpful to display a series of plan-making scenarios with key dates and deadlines that each local authority can easily identify with.
- The proposed delay in the June 2025 deadline to December 2026 for the submission of local plans under the current system has led to a slow down in plan making activity in our experience. It is important to ensure that an appropriate deadline is set that will provide a wide incentivisation for all local authorities (no matter what stage they are at) to progress as quickly as possible with plan making

where strategic policies of local plans are out of date. Given the vast number of different deadlines that have been given to local authorities for submitting up to date local plans over recent years many local authorities are sceptical. It is vital that the government sticks to the deadline stated and provides support to authorities where required to meet it.

- New paragraph 226 – the timescale of publication date + one month does not realistically give local authorities time to respond to the publication of the NPPF. We suggest that publication date + three months would be more realistic in enabling local authorities to set their course once they have clarity on the national planning policy requirements.
- New paragraph 231 says that the 2012 NPPF will continue to apply for plans submitted before 24 Jan 2019. New paragraph 226 provides circumstances in which an emerging Local Plan would be examined under the 2023 NPPF. However it would appear that no provision is made for existing plans that are already at examination to continue to be examined under other older versions of the NPPF (such as 2019, 2021). This appears to be an omission.
- Clause b. of new paragraph 226 appears to indicate that a Part 2 Local Plan that does not set a new housing requirement can continue to apply policies in the 2023 NPPF as long as the relevant Local Plan Part 1 was also prepared under an older version of the Framework. This could theoretically lead to a situation whereby the Part 2 Local Plan is progressed but the strategic housing policies of the Local Plan Part 1 are out of date. In such a scenario, the ‘tilted balance’ would apply for decision making and some of the policies in the Part 2 Local Plan may be considered to be out of date immediately upon adoption. The merits of continuing to produce a Part 2 Local Plan could be questionable. It may perhaps be prudent to alter clause b to refer to the relevant Local Plan Part 1 having up to date strategic housing policies or similar.
- It is unclear whether the strategic housing policies of plans that are now progressing through the system and have a shortfall of 200 dwellings or more would be out-of-date on adoption. If this is the case this would mean that the ‘tilted balance’ would apply and the plan policies would carry limited weight. Clarity on this point is essential, and we suggest that it is important to allow a period of ‘protection’ for newly adopted local plans that are at an advanced stage and currently progressing towards adoption. We suggest that a period of protection for three years would be appropriate in order to provide authorities in this position the time required to progress and put in place updated strategic policies. Without this protection some local authorities may decide to abandon work on advanced plans many years in the making, which could extend the time period that some authorities are left without an up to date local plan.

We hope that the above response is helpful to inform the finalisation of changes to the Framework. Please do not hesitate to contact us should you require further discussion on any of the points or suggestions that we have made in our response.

Yours faithfully

A handwritten signature in black ink, appearing to read 'David Coleman', is positioned in the upper left quadrant of the page.

David Coleman

Managing Director

DAC Planning

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