



## HOUSING WHITE PAPER RESPONSE

April 2017

### Question 1

*Do you agree with the proposals to:*

*a) Make clear in the National Planning Policy Framework that the key strategic policies that each local planning authority should maintain are those set out currently at paragraph 156 of the Framework, with an additional requirement to plan for the allocations needed to deliver the area's housing requirement?*

*b) Use regulations to allow Spatial Development Strategies to allocate strategic sites, where these strategies require unanimous agreement of the members of the combined authority?*

*c) Revise the National Planning Policy Framework to tighten the definition of what evidence is required to support a 'sound' plan?*

1(a) There are several serious omissions in the list of things local plans ought to deliver in paragraph 156 including:-

- the land reclamation needed in the area;
- compact development to minimize wastage of land and create sustainable communities;
- the provision of food and other agricultural products and conservation of agricultural land;
- the provision of timber and other forest products and conservation of forests.

It might also be worth considering whether local plans should include the needs for educational and social care facilities in an area, given their potential land-take. But given the abuse of the *NPPF* to force unsustainable greenfield development on councils since 2012, it is unclear why any further policy to push housing is needed at this point; Section 156 already requires this anyway.

1(b) Paragraph A.17 of the white paper is ambiguous: "... regulations will allow them to allocate strategic sites". Who precisely is "them"? The combined authority itself? The elected members of the combined authority? The councils involved in the combined authority? The elected members of the individual councils? The elected mayors? Allowing elected mayors to impose "strategic sites" on individual authorities smacks more of autocracy than effective planning.

1(c) No comment.

### Question 2

*What changes do you think would support more proportionate consultation and examination procedures for different types of plan and to ensure that different levels of plans work together?*

The period since 2012 has seen the examination process become enmired in unnecessary controversy and sadly the previous high reputation of the Inspectorate becoming the subject of suspicion, criticism and accusations that it is being used to impose unsustainable central policies on elected local authorities. The system has become dictatorial and inconsistent.

### **Question 3**

*Do you agree with the proposals to:*

*a) amend national policy so that local planning authorities are expected to have clear policies for addressing the housing requirements of groups with particular needs, such as older and disabled people?*

*b) from early 2018, use a standardised approach to assessing housing requirements as the baseline for five year housing supply calculations and monitoring housing delivery, in the absence of an up-to-date plan?*

3(a) We fully support this proposal and believe it should be more widely applied. The Government's household projections estimate that 64% of the new households likely to form in coming decades will, essentially, be over-64s. Most of the rest will be younger, single people. We suggest four possible specific categories for housing requirements:-

- elderly people;
- people with disabilities
- single people and one-parents;
- those unable to afford to buy or rent privately in the area who need social housing.

3(b) While more consistency is needed in assessing housing need, that should not be used to impose national measures of need across the country. Underlying past policy has been the implicit assumption that, to maximize the number of homes approved to meet national targets, high levels of building are needed across the country. That leads to further oversupply in areas where needs are low and markets are already depressed, which ultimately leads to total market failure.

### **Question 4**

*Do you agree with the proposals to amend the presumption in favour of sustainable development so that:*

*a) authorities are expected to have a clear strategy for maximising the use of suitable land in their areas?;*

*b) it makes clear that identified development needs should be accommodated unless there are strong reasons for not doing so set out in the NPPF?;*

*c) the list of policies which the Government regards as providing reasons to restrict development is limited to those set out currently in footnote 9 of the National Planning Policy*

Framework (so these are no longer presented as examples), with the addition of Ancient Woodland and aged or veteran trees?

d) its considerations are re-ordered and numbered, the opening text is simplified and specific references to local plans are removed?

The so-called “presumption in favour of sustainable development” has proved to be nothing of the kind. A provision named to suggest it is intended to secure sustainable development but which actually brings about the exact opposite of what is sustainable and which may be presumed to be its real intent, could best be described as Orwellian in nature. Its imposition on local authorities which lack what DCLG judges to be an up-to-date local plan has brought the planning system – and indeed the Department - into serious disrepute. Sustainable development is supposed to be a “golden thread” informing the whole *NPPF*, but stripping a local authority of its ability to enforce local requirements on development simply undermines sustainable development. The “presumption” needs to be scrapped entirely and rethought.

4(a) We are extremely concerned about a statement like “local planning authorities should be able to demonstrate that they have a clear strategy to maximise the use of suitable land in their area”. Were this intended to be a way of ensuring good use of building land were made by the imposition of suitable density levels, a significant failure in the *NPPF*, all well and good. But it is plainly not intended to be that. The way it reads is that the Government wants maximum use to be made of all *buildable* land (compounded by the same impression created by the existence of SHLAs).

4(b) It is often the case that strong reasons are given in the rest of the *NPPF* for not meeting “identified needs” for housing, but when local planning authorities try to use them, the provisions pushing unsustainable levels of housing are triumphant. What the *NPPF* ought to say is that its other provisions should be given equal weight with housing need.

4(c) At present, Footnote 9 barely imposes any sort of effective restriction on development even on green belts, open spaces, AONBs, heritage coasts, national parks, heritage assets, floodplains or sites of coastal erosion. Since 2012 there have been numerous cases of local planning authorities believing they need to allow development in such cases, notably in green belts and AONBs, thanks to the *Framework*'s provisions on housing. So it is too weak as it stands, although the current “for example” wording offers no scope for using other *Framework* policies – which ones would it cover?

What is needed is a clear statement of policy that permission should not be granted, except where material considerations indicate otherwise, when the *Framework* indicates development should be restricted.

Otherwise there is no point to the rest of the *Framework*.

### **Question 5**

*Do you agree that regulations should be amended so that all local planning authorities are able to dispose of land with the benefit of planning consent which they have granted to themselves?*

We do not agree. Regulations allowing any local authority to grant themselves planning consent should be amended to allow a third-party right of appeal. Council's-own-development-permission already breaches the fundamental principle of law that people should not be able to act as their own court or regulator and that would at least allow a little external scrutiny.

If local authorities did dispose of land at undervalue, there should be some kind of mechanism for them to recover any substantial subsequent uplift in the value of the land if that occurs.

#### **Question 6**

*How could land pooling make a more effective contribution to assembling land, and what additional powers or capacity would allow local authorities to play a more active role in land assembly (such as where 'ransom strips' delay or prevent development)?*

No comment.

#### **Question 7**

*Do you agree that national policy should be amended to encourage local planning authorities to consider the social and economic benefits of estate regeneration when preparing their plans and in decisions on applications, and use their planning powers to help deliver estate regeneration to a high standard?*

Any decision on estate management should be a matter of local choice rather than national pressure. It should consider its economic, environmental and social effects. Where such regeneration is chosen locally, it is important that national policy makes clear that there is no net loss of socially rented homes as a result of the process. Given the current acute shortage of such housing, funding the process by converting some of the estate into market or "affordable" housing is not acceptable.

#### **Question 8**

*Do you agree with the proposals to amend the National Planning Policy Framework to:*

- a) highlight the opportunities that neighbourhood plans present for identifying and allocating small sites that are suitable for housing?;*
- b) encourage local planning authorities to identify opportunities for villages to thrive, especially where this would support services and help meet the authority's housing needs?;*
- c) give stronger support for 'rural exception' sites – to make clear that these should be considered positively where they can contribute to meeting identified local housing needs, even if this relies on an element of general market housing to ensure that homes are genuinely affordable for local people?;*
- d) make clear that on top of the allowance made for windfall sites, at least 10% of sites allocated for residential development in local plans should be sites of half a hectare or less?;*
- e) expect local planning authorities to work with developers to encourage the sub-division of large sites?; and*

*f) encourage greater use of Local Development Orders and area-wide design codes so that small sites may be brought forward for development more quickly?.*

“Great weight” is a very blunt instrument which should be used sparingly, and not in this case.

8(a) The white paper rightly notes that the affordability of homes in rural areas is important to sustain such communities. However, simply increasing the availability of market homes will not do this; however many homes that could possibly be built would only add a minute percentage to the overall housing stock and have no discernible effect on prices. The only measure that makes a significant difference to availability of affordable rural housing is provision of social rented homes by councils or RSLs. Neighbourhood plans should allow those formulating them to stipulate less housing than required in the local plan, when there are overwhelming environmental or social reasons to do so. Simply demanding they identify even more sites would simply undermine this. The provision should, therefore, be limited to sites for social rented housing.

The white paper says (A.53) that there will be “a clear presumption that residential development opportunities on small sites should be treated positively, while ensuring authorities can continue to protect valued areas of open space, the character of residential neighbourhoods and stop unwanted garden grabbing”. It is unlikely there is any significant number of such sites which would not involve open space, affect the character of rural neighbourhoods or use gardens.

8(b) We support genuine proposals to sustain and improve village services.

8(c) No comment.

8(d) Insisting local plans include 10% of sites of less than 0.5ha would have little or no effect as it would account for a minute percentage of the homes planned and would have no benefit in those local plans that already meet this figure. To have any real effect the figure would need to be nearer 50%.

8(e) While welcome in principle, it threatens to reduce still further the contribution large developers make to the infrastructure necessitated by their developments. Any such provision should ensure that infrastructure is provided.

8(f) We strongly welcome the use of design codes to ensure the character of local areas is maintained and local planning authorities should be required to use codes which reflect local character and vernacular. This should apply to large and small sites and, indeed, to large sites which have been sub-divided. However, strong central guidance is needed to gain more than lip-service and sterile, off-the-peg uniformity to house builders’ designs.

We do not support the wider use of local development orders and see no justification for this.

## **Question 9**

*How could streamlined planning procedures support innovation and high-quality development in new garden towns and villages?*

Garden towns and villages are wholly unjustified and pose serious threats to sustainability, as set out in our new report *Garden Towns and Villages – Unwanted, Unnecessary and*

*Unsustainable* currently awaiting publication. For the reasons set out in the report, new settlements and urban extensions virtually always require much more infrastructure to be provided than in-conurbation development (sites like Ebbsfleet being so rare they require no special planning consideration). They almost always use wholly or predominantly greenfield land, employ ultra-low “garden city” type densities and are mostly or wholly car-dependent and unable to support high-quality public transport, local shop and other facilities, so increasing both traffic congestion and greenhouse gas emissions. These arguments are explained at greater length in the report. We recommend deletion of paragraph 52 of the *NPPF*, abandonment of DCLG’s garden towns and villages programme and repeal, not amendment, of the New Towns Act.

### **Question 10**

*Do you agree with the proposals to amend the National Planning Policy Framework to make clear that:*

- a) authorities should amend green belt boundaries only when they can demonstrate that they have examined fully all other reasonable options for meeting their identified development requirements?*
- b) where land is removed from the green belt, local policies should require compensatory improvements to the environmental quality or accessibility of remaining Green Belt land?*
- c) appropriate facilities for existing cemeteries should not be regarded as ‘inappropriate development’ in the green belt?*
- d) development brought forward under a Neighbourhood Development Order should not be regarded as inappropriate in the green belt, provided it preserves openness and does not conflict with the purposes of the green belt?*
- e) where a local or strategic plan has demonstrated the need for green belt boundaries to be amended, the detailed boundary may be determined through a neighbourhood plan (or plans) for the area in question?*
- f) when carrying out a green belt review, local planning authorities should look first at using any green belt land which has been previously developed and/or which surrounds transport hubs?*

10(a) This proposal, in itself, fundamentally undermines the commitment in the *NPPF* to keep green belt land “permanently open”. How can it be kept permanently open if you then describe circumstances in which it should be developed? Exceptional should mean exceptional, not a matter of routine analysis. Contradictions of this sort (as with the “presumption in favour of sustainable development”) bring both the planning system and the Government into disrepute.

If “identified development requirements” are assessed every five years as part of the new statutory local plan reviews then, far from being exceptional, the destruction of green belt land would have to be considered routinely twice every decade. “Identified” is already the subject of considerable justified cynicism, given the participation of those with a vested interest in securing planning permission on greenfield land in the process. Trying to shift the blame to local planning authorities who have been forced (often by examiners) to bend to

the unnecessary and irrational demands for housing land imposed by Whitehall fools no-one.

“Development requirements” is, itself, highly ambiguous. Who, in this context, is doing the requiring? And it is plainly wider than “housing requirements”.

The proposed definition of “exceptional circumstances” is something local planning authorities should be doing anyway, long before they consider destroying green belt land; most of this is already required by the *NPPF*:-

- The way to ensure full use is made of brownfield housing land is to reinstate brownfield-first in the *NPPF*. Its absence is, in effect, a greenfield-first policy, given requirements on viability and deliverability.
- No definition is given of “underused”. What does it mean?
- Density of development (residential and otherwise) should indeed be optimized, but once again it lacks a definition. We would argue that appropriate densities for housing should normally be in the 60-120dph level and only more or less than that in exceptional circumstances for small developments. This wouldn’t mean “town cramming”; it was the density at which cities, towns and villages were built until the 20<sup>th</sup> century when low-density sprawl became fashionable. Some would argue that there are areas where only very low densities, below 30dph, would be appropriate. We would argue that, if this is so, then those areas are unsuitable for residential development.
- The *NPPF* already contains requirements for neighbouring authorities to meet housing needs.

The proposed definition of exceptional circumstances for green belt release would ensure such releases became the norm. Is this what DCLG intends? If so it would appear to contradict ministerial assurances about protecting green belts.

10(b) Implicit in this is the expectation that green belts will shrink, apart from the cynically misleading process of designating new areas to create “rolling green belts”.

10(c) Expansion of cemeteries should not, nonetheless, *necessarily* be regarded as appropriate development.

10(d) There are few kinds of development which preserve openness, so perhaps those that are considered as doing so should be stipulated.

10(e) This potentially would bring the neighbourhood planning process into disrepute.

10(f) The *NPPF* already (paragraph 89) allows brownfield development in green belts.

The definition of a “transport hub” needs to make clear it requires more than simply a railway or bus station, but is part of a complex network of public transport provision, much of it rail-based.

### **Question 11**

*Are there particular options for accommodating development that national policy should expect authorities to have explored fully before green belt boundaries are amended, in addition to the ones set out above?*

One area not included in the so-called “exceptional circumstances” test is whether the local economy is expanding too fast for the local housing and infrastructure to keep up. Given the

country's indebtedness and patchy economic performance, this might seem like a luxury, but we urgently need to ensure that economic growth is concentrated in those regions where it is most needed and where, thanks to their declining or static populations, housing supplies are under much less stress. But the policy of backing winners to further grow their economies – inevitably at the expense of regions which are not performing so well – simply exacerbates the problems and entrenches the difficulties of economically depressed regions.

This is, of course, a challenge fundamentally for central government but planning policy should make clear that local planning authorities should not be aiming for substantial increases in local employment where housing levels are already under stress, unemployment is low locally and the growth can only be facilitated by unsustainable, car-dependent, greenfield development.

### **Question 12**

*Do you agree with the proposals to amend the National Planning Policy Framework to:*

*a) indicate that local planning authorities should provide neighbourhood planning groups with a housing requirement figure, where this is sought?;*

*b) make clear that local and neighbourhood plans (at the most appropriate level) and more detailed development plan documents (such as action area plans) are expected to set out clear design expectations; and that visual tools such as design codes can help provide a clear basis for making decisions on development proposals?;*

*c) emphasise the importance of early pre-application discussions between applicants, authorities and the local community about design and the types of homes to be provided?;*

*d) makes clear that design should not be used as a valid reason to object to development where it accords with clear design expectations set out in statutory plans?; and*

*e) recognise the value of using a widely accepted design standard, such as Building for Life, in shaping and assessing basic design principles – and make clear that this should be reflected in plans and given weight in the planning process?*

12(a) Neighbourhood planning teams should have maximum flexibility to assess their own local needs.

12(b) We agree these documents should make clear the need for good design is necessary, not merely desirable. National guidance is needed to back this.

12(c) Pre-application discussions are a good thing, so long as they are not used to over-ride public participation in the development control process.

12(d) There may be very local circumstances where the design requirements set out in such documents are inappropriate. In these cases objections should be treated as valid and reasons given in development control decisions where they are ignored.

12(e) As stated above, national guidance is needed.

### **Question 13**

*Do you agree with the proposals to amend national policy to make clear that plans and individual development proposals should:*

- a) make efficient use of land and avoid building homes at low densities where there is a shortage of land for meeting identified housing needs?;*
- b) address the particular scope for higher-density housing in urban locations that are well served by public transport, that provide opportunities to replace low-density uses in areas of high housing demand, or which offer scope to extend buildings upwards in urban areas?;*
- c) ensure that in doing so the density and form of development reflect the character, accessibility and infrastructure capacity of an area, and the nature of local housing needs?;*
- d) take a flexible approach in adopting and applying policy and guidance that could inhibit these objectives in particular circumstances, such as open space provision in areas with good access to facilities nearby?*

13(a) We welcome this proposal, with the proviso that we believe almost all house building should avoid low densities. Compact development that makes good use of land and avoids low-density residential development squandering scarce building land is a central tenet of the Smart Growth approach. National and local guidance – and individual development control decisions – should reflect this. It was very disappointing when the very low minimum standard of 30dph was abandoned in 2010. In reality, most traditional city, town and village development was created at far higher densities than this, typically 60-120dph, until garden city principles began to be applied after the Great War, leading to almost a hundred years of hypersprawl.

The *NPPF* and local plans should, therefore:-

- include a range of required residential net density standards, normally in the 60-120dph range;
- stipulate that developments of more than 20 homes should be located within 800m of rail-based transit;
- restrict residential densities below 30dph to sites of less than five homes within AONBs or national parks.

13(b) We welcome this proposal. Transit-oriented-development (TOD) should be a fundamental principle of any major development. With the urgent need to reduce greenhouse gas emissions from transport (92% by 2050 is the current estimate), it should be unthinkable to build major residential or employment developments that are remote from high-quality and dense networks of rail-based public transport.

TODs do more than simply encourage or facilitate commuting and there would be no benefit to simply creating new commuter dormitory towns. The *NPPF* should aim to create them as part of existing sustainable communities with housing, employment and other uses in balance to reduce, not just travelling by car, but the need to travel at all.

There are various definitions of TOD but, in essence, it should promote a mixture of medium to high-density housing, office, retail or other commercial development and amenities in a walkable neighbourhood within about 800m of quality public transport, light-rail, tram and other rail-based where possible. It can secure:-

- reduced driving and hence lower congestion, air pollution and greenhouse gas emissions;

- walkable and cyclable communities that accommodate more healthy and active lifestyles;
- increased public transport ridership and fare revenues;
- improvements in local economies;
- improved access to jobs, economic activity, education, retail and services, especially for those on low incomes;
- improved mobility choices, reducing dependence on cars;
- stimulation of town centres.

TOD can therefore, if well done, secure a large number of the Government's objectives, including increased numbers of homes and more sustainable communities. There are, however, many potential pitfalls and it needs to be done right if these are to be avoided and these potential gains secured:-

- developers responded to the last attempt to raise urban densities (the 1999 Urban Renaissance and associated policies) by predominantly building large numbers of unpopular small, high-density blocks of flats in city developments – the *NPPF* should require local plans to specify appropriate densities and urban forms;
- a poor residential mix - developments need to be a blend of houses (predominantly terraced) and flats and space standards are needed;
- loss of valuable townscape and a need to protect the existing structure of towns/historic buildings/heritage/open space;
- over-concentration on housing can ignore the need for other uses and place making;
- some land around stations is needed for metro, light-rail or tram alignments and expansion of bus facilities, all of which would need safeguarding;
- street layouts would need to be “permeable”, protecting walking and cycling and connectivity with wider areas;
- creation of supposedly transit-oriented-developments in unsuitable places like rural or semi-rural locations where these would, in reality, result in car-dependent developments;
- sterilizing valuable space in TODs for car parking;
- Network Rail, London Underground, light-rail and tram operators may genuinely need to retain some land for future expansion of railway services.

The 2015 Royal Town Planning Institute study of *Building in the Green Belt?*<sup>i</sup> conclusively showed that a railway station alone, even with some sort of connecting bus service, is not in itself a sufficient way of getting people out of cars and on to sustainable transport modes. The five towns studied all had good railway services but 72% of commuter trips were made by car so adding a million homes near stations in London's green belt could add 3.9-7.5m car journeys each week to the region's overcrowded roads. And only 16% of all journeys are journeys to work<sup>ii</sup>.

An accessibility mapping approach, as recommended by the Transport Planning Society<sup>iii</sup>, could be used to identify suitable candidates for TOD status as they can show local and strategic connectivity of individual areas. Such a methodology could usefully be incorporated in the *NPPF*. The TOD concept offers a good opportunity for better links between transport and land-use planning. As the Society says: “Compact, liveable cities are critical to realising the potential agglomeration benefits of urban concentration, but are undermined by the poor UK record of land-use/transport integration” and it notes that dispersed housing and commercial

development “harden” more dispersed locational choices and increase transport demand, particularly for roads, with resultant congestion etc..

Light-rail and tram can offer turn-up-and-go frequencies which do not require published timetables as such, and this has been a major success in American Smart Growth planning. Meanwhile in the UK light-rail use continues to rise, with usage in the financial year ending in 2015 hitting record passenger journeys (239.8 million) and vehicle miles (18.4 million) since comparable records began in 1983. Since 2005, the first full year when all current systems were in operation, light-rail journeys have grown 51% and around 2.7% of public transport journeys in Great Britain are made on light-rail systems.

Planning of a TOD needs to be integrated closely with planning of the local transport. Such planning would benefit from the reregulation of bus services as unregulated services can lead to unsought planning outcomes.

A policy to require transit-oriented-developments in the *NPPF* would, therefore, need to incorporate some limitations on its location and form, its public transport services and other transport infrastructure:-

- it should have, at its centre, a significant rail-based public transport facility, either heavy rail, metro, light-rail or tram;
- the public transport services connecting with the hub should be as intensive as the size of the settlement allows. In a small town that would involve several bus routes. In a major city it would certainly involve a dense network, preferably including other rail-based options like light-rail and tram, and offering high, “turn-up-and-go” frequencies with short travel times to major local destinations like a city centre, a major retail or employment area and substantial residential areas;
- it should be located within a substantial and relatively dense settlement with a contiguous population of, say, 40,000 people within a 4km radius;
- it should already contain a mix of uses including retail;
- it should be at least 5km from a motorway or dual-carriageway trunk road – it’s supposed to be transit-oriented, not car-oriented;
- it should be created wholly or predominantly on brownfield land;
- it should not be more than 800m in radius – the distance it is easy for most people to walk to the main public transport facility;
- car parking capacity should be limited.

We therefore recommend transit-oriented-developments should be defined as follows: “An area with normally a radius of no more than 800m around a public transport interchange (railway, metro, light-rail or tram) with an intensive, integrated public transport network, within a settlement having a living and working population of at least 40,000.” This will need to be qualified with design standards

13(c) This should be a fundamental principle of good planning via national, regional and local policy and, for the most part, it was until the *NPPF* and its unrealistic demands for greenfield housing was imposed. There has been a presumption that increased density cannot go alongside older or more open existing styles of development; this is misconceived. More flexibility is needed (many traditional rural town cores are actually high density, of course, and it is just the spread-out “character” of the newer bits of such towns that is used to impose continued lower density development styles)

13(d) Plainly, adequate open space is necessary in any urban area, but it is difficult to see how imposition of things like residential density standards could inhibit its provision. These, after all, would only apply to the site of the development itself. Open space standards

should be based on populations and densification could, therefore, slightly increase the requirement for open space. There could be a case for open space standards as part of a “gross density” approach.

#### **Question 14**

*In what types of location would indicative minimum density standards be helpful, and what should those standards be?*

There should be a national minimum residential density, normally 60dph. In certain areas, such as some conservation areas, 30-60dph might occasionally be appropriate. If 30dph is thought too high on a given site, then it is not appropriate for residential development except in the most exceptional circumstances.

#### **Question 15**

*What are your views on the potential for delivering additional homes through more intensive use of existing public sector sites, or in urban locations more generally, and how this can best be supported through planning (using tools such as policy, local development orders, and permitted development rights)?*

Policy, in the *NPPF*, *NPPG* and other statutory documents is essential to securing sustainable development in all its aspects, including concentrating development within existing conurbations. This should not be qualified by “public sector”; it should apply generally. We are, however, opposed to wider use of LDOs and permitted development which do little or nothing to make development more sustainable and simply undermine the ability of planners to influence development. They have their place, but it’s a limited one.

The single measure which would, at a stroke, provide many additional homes in urban areas would be the restoration of brownfield-first. This does not mean no greenfield land would be needed for development, but it would simply require brownfield sites to be allocated (and built out) before greenfield sites. Brownfield-first would be many times more effective than weak and potentially unsustainable measures like LDOs and permission in principle.

There are a number of priorities for action on brownfield which Smart Growth UK recommends<sup>iv</sup>:-

- major investment in land reclamation, both urban brownfield and damaged land in rural areas including instability, derelict buildings etc.;
- public investment in assembly and preparation of brownfield land for development;
- public investment in restoration of brownfield land to green end uses including agriculture, recreation and nature conservation;
- establishment of brownfield funds offering a mix of loans and capital grants for brownfield housing work;
- adequately resourced national systems of capital funding for local authority contaminated land projects for sites where there is no immediate prospect of remediation through the planning system;
- capital funds should be established for restoration of current and historic mineral sites.

### **Question 16**

*Do you agree that:*

*a) where local planning authorities wish to agree their housing land supply for a one-year period, national policy should require those authorities to maintain a 10% buffer on their 5 year housing land supply?;*

*b) the Planning Inspectorate should consider and agree an authority's assessment of its housing supply for the purpose of this policy?*

*c) if so, should the Inspectorate's consideration focus on whether the approach pursued by the authority in establishing the land supply position is robust, or should the Inspectorate make an assessment of the supply figure?*

The admission in paragraph 2.7 of the white paper that “where an authority cannot demonstrate a five-year supply of land to cater for its housing need, it is vulnerable to its plan being undermined. This is because in these circumstances their plan is deemed to be out of date and the presumption in favour of sustainable development applies. This policy has been effective but is also a blunt tool and has had some negative effects on local planning” is entirely welcome. It means DCLG accepts our view that the so-called “presumption” has brought the system into disrepute and we commend the Department for its candour, though it is unclear why other provisions in the white paper propose amending the “presumption” when scrapping it is the only tenable course.

16(a) “Five-year supplies” have also brought considerable disrepute to the planning system as they are subjective, influenced by commercial (rather than economic, environmental or social) considerations. The whole principle of underperformance has undermined good planning.

16(b) Forcing the respected Planning Inspectorate to pursue this political policy against the wishes and objective analysis of local planning authorities and, indeed, the extensive sustainability provisions elsewhere in the *NPPF* has also brought the Inspectorate into disrepute. Its reputation urgently needs restoring and this measure would further undermine it.

16(c) N/A.

### **Question 17**

*In taking forward the protection for neighbourhood plans as set out in the Written Ministerial Statement of 12 December 2016 into the revised NPPF, do you agree that it should include the following amendments:*

*a) a requirement for the neighbourhood plan to meet its share of local housing need?;*

*b) that it is subject to the local planning authority being able to demonstrate through the housing delivery test that, from 2020, delivery has been over 65% (25% in 2018; 45% in 2019) for the wider authority area?*

*c) should it remain a requirement to have site allocations in the plan or should the protection apply as long as housing supply policies will meet their share of local housing need?*

17(a) Not if this includes specific numbers. Neighbourhood planners should be allowed to assess local need.

17(b) See 17(a).

17(c) See 17(a).

### **Question 18**

*What are your views on the merits of introducing a fee for making a planning appeal? We would welcome views on:*

- a) how the fee could be designed in such a way that it did not discourage developers, particularly smaller and medium sized firms, from bringing forward legitimate appeals;*
- b) the level of the fee and whether it could be refunded in certain circumstances, such as when an appeal is successful; and*
- c) whether there could be lower fees for less complex cases.*

18(a) Such a fee could be set on a sliding scale, with a *de minimis* provision beneath which it was not applied. Fees should not be charged for the third-party right of appeal once it is implemented, as natural justice has long demanded.

18(b) This raises the question of what the fee is for. If it is to defray the cost of appeals, then the outcome of the appeal is irrelevant. But if it is meant to deter appeals, then it should be considered. Of course, any revenue generated should go to the local planning authority, not to the Inspectorate or Department.

18(c) "Less complex" would need to be carefully defined.

### **Question 19**

*Do you agree with the proposal to amend national policy so that local planning authorities are expected to have planning policies setting out how high quality digital infrastructure will be delivered in their area, and accessible from a range of providers?*

High-quality digital infrastructure is obviously important to local areas though its provision would appear to be more of a commercial challenge than a planning one. Some remote areas of the country are unlikely to be able to support competing services, so the requirement for a range of providers would be untenable.

### **Question 20**

*Do you agree with the proposals to amend national policy so that:*

- the status of endorsed recommendations of the National Infrastructure Commission is made clear?; and*
- authorities are expected to identify the additional development opportunities which strategic infrastructure improvements offer for making additional land available for housing?*

The National Infrastructure Commission already has too much power and institutionalizing it at the Treasury will exacerbate this. We are particularly concerned that it may push major road building with its potential to increase traffic congestion and greenhouse gas emissions.

National planning policy should, therefore, make clear that local planning authorities should be free to ignore proposals from the Commission when they threaten to undermine sustainable development in this way.

**Question 21**

*Do you agree that:*

- a) the planning application form should be amended to include a request for the estimated start date and build out rate for proposals for housing?*
- b) that developers should be required to provide local authorities with basic information (in terms of actual and projected build out) on progress in delivering the permitted number of homes, after planning permission has been granted?*
- c) the basic information (above) should be published as part of Authority Monitoring Reports?*
- d) that large housebuilders should be required to provide aggregate information on build out rates?*

Yes.

**Question 22**

*Do you agree that the realistic prospect that housing will be built on a site should be taken into account in the determination of planning applications for housing on sites where there is evidence of non-implementation of earlier permissions for housing development?*

Yes.

**Question 23**

*We would welcome views on whether an applicant's track record of delivering previous, similar housing schemes should be taken into account by local authorities when determining planning applications for housing development.*

Yes.

**Question 24**

*If this proposal were taken forward, do you agree that the track record of an applicant should only be taken into account when considering proposals for large scale sites, so as not to deter new entrants to the market.*

Yes.

**Question 25**

*What are your views on whether local authorities should be encouraged to shorten the timescales for developers to implement a permission for housing development from three years to two years, except where a shorter timescale could hinder the viability or*

*deliverability of a scheme? We would particularly welcome views on what such a change would mean for SME developers.*

One key weakness of the current approach is that “implementation” is considered as having started on the development. Certainly the requirement for a start within two years, even on a major development, is reasonable. But there should also be a requirement for a development to be substantially completed and, in part, occupied. This could remain at three years.

But to make any sense of this proposal, it would be necessary to ensure the planning permission could not be extended or renewed. The existence of such provisions undermines the whole system. Indeed, if a major greenfield housing development has not been started within two years of permission, that should be rescinded and the allocation removed from the local plan as it is obviously not “viable”.

#### **Question 26**

*Do you agree with the proposals to amend legislation to simplify and speed up the process of serving a completion notice by removing the requirement for the Secretary of State to confirm a completion notice before it can take effect?*

Yes.

#### **Question 27**

*What are your views on whether we should allow local authorities to serve a completion notice on a site before the commencement deadline has elapsed, but only where works have begun? What impact do you think this will have on lenders’ willingness to lend to developers?*

This is fine in theory, but see the answer to Question 25 above. If developers lost their right to complete a development after a given period, they would be more likely to build out a development than try to reap the commercial rewards by *not* building it.

#### **Question 28**

*Do you agree that for the purposes of introducing a housing delivery test, national guidance should make clear that:*

- a) The baseline for assessing housing delivery should be a local planning authority’s annual housing requirement where this is set out in an up-to-date plan?*
- b) The baseline where no local plan is in place should be the published household projections until 2018/19, with the new standard methodology for assessing housing requirements providing the baseline thereafter?*
- c) Net annual housing additions should be used to measure housing delivery?*
- d) Delivery will be assessed over a rolling three year period, starting with 2014/15 – 2016/17?*

Paragraph A109 of the white paper suggests the reason insufficient homes are being built is due lack of land. This is seldom the case; the real reasons are that builders too often find it more commercially attractive not to build, plus the way the *NPPF* militates against brownfield development.

Any housing delivery test should, therefore, be aimed at individual developers and examine the number of planning permissions they have secured which have not been built out, and how long for. Using household project figures to batter local planning authorities reduces the whole planning process to subjectivity and irrationality; household formation projection is a very imprecise process and depends on the availability of housing stock and long-term unpredictable demographic factors and social trends. "Household need" is therefore, fairly meaningless, but if it is to be applied the breakdown of the projections should be looked at and we should cease building "family housing" at all and concentrate on housing for the elderly, the single and those in need of social renting (see Question 3 above).

### **Question 29**

*Do you agree that the consequences for under-delivery should be:*

- a) From November 2017, an expectation that local planning authorities prepare an action plan where delivery falls below 95% of the authority's annual housing requirement?;*
- b) From November 2017, a 20% buffer on top of the requirement to maintain a five year housing land supply where delivery falls below 85%?;*
- c) From November 2018, application of the presumption in favour of sustainable development where delivery falls below 25%?;*
- d) From November 2019, application of the presumption in favour of sustainable development where delivery falls below 45%?; and*
- e) From November 2020, application of the presumption in favour of sustainable development where delivery falls below 65%?*

Requirements on so-called "under-delivery" have prompted a huge flood of unsustainable development to the point that the only possible way forward is to abandon the concept and find more sustainable ways of planning for housing in local plans. None of these proposals is compatible with sustainable development.

### **Question 30**

*What support would be most helpful to local planning authorities in increasing housing delivery in their areas?*

Significantly increased borrowing facilities from the Public Works Loan Board to build council housing.

### **Question 31**

*Do you agree with our proposals to:*

- a) amend national policy to revise the definition of affordable housing as set out in Box 4?;*
- b) introduce an income cap for starter homes?;*
- c) incorporate a definition of affordable private rent housing?;*

*d) allow for a transitional period that aligns with other proposals in the White Paper (April 2018)?*

31(a) Recent work suggests that current subsidies for home ownership are not going to those at the margins but to those who need them least. No definition should include a subsidized route to home ownership unless this can be resolved.

31(b) There are large parts of England where household incomes up to £80,000/y, the threshold for Starter Homes, are rare, house prices are low and this simply provides a regressive subsidy for the better-off.

31(c) This is getting ever further from any genuine concept of affordability. Basic “affordable” housing is social rented housing.

### **Question 32**

*Do you agree that:*

*a) national planning policy should expect local planning authorities to seek a minimum of 10% of all homes on individual sites for affordable home ownership products?*

*b) that this policy should only apply to developments of over 10 units or 0.5ha?*

32(a) Only if affordable is redefined to mean social rented and the proportion needs to be at least 25% on larger (50+) developments.

32(b) See above.

### **Question 33**

*Should any particular types of residential development be excluded from this policy?*

Build-to-rent developments are harming peoples’ ability to own their own home or to secure a social rented home (for those who are not so able). The Government needs to stop encouraging them at all. A range of rent control measures is required.

### **Question 34**

*Do you agree with the proposals to amend national policy to make clear that the reference to the three dimensions of sustainable development, together with the core planning principles and policies at paragraphs 18-219 of the National Planning Policy Framework, together constitute the Government’s view of what sustainable development means for the planning system in England?*

The white paper states that the planning system’s contribution to sustainable development is “the achievement of sustainable development, which means that it must perform an economic, social and environmental role” (paragraph A132). But this means very little as every development on the planet performs some kind of economic, social and environmental role. Securing *genuinely* sustainable development necessitates a vast range of things, many of which the so-called “presumption” has undermined.

The *NPPF*, quite rightly, requires planning to be about more than scrutiny and requires it to be a creative exercise in finding ways to enhance and improve places. It says the policies in its paragraphs 18 to 219, taken as a whole, “constitute the Government’s view of what sustainable development in England means in practice for the planning system”.

So it already makes clear that “reference to the three dimensions of sustainable development, together with the core planning principles and policies at paragraphs 18-219 of the *Framework*, together constitute its view of what sustainable development means for the planning system in England”. The proposal in A134 therefore adds nothing useful to the *NPPF*.

As the white paper notes (A133), the courts have concluded that the so-called “presumption in favour of sustainable development” is entirely irrelevant to the process of securing of sustainable development. We believe that the many provisions of the *Framework* intended to maximize raw numbers of houses built and (to this end) to impose national control of the content of local plans, actively undermine the securing of sustainable development. We recommend, therefore, root and branch reform of the *Framework*’s housing provisions (as set out above) and deletion of the presumption.

A definition of sustainable development reflecting internationally accepted norms is needed.

### **Question 35**

*Do you agree with the proposals to amend national policy to:*

*a) Amend the list of climate change factors to be considered during plan-making, to include reference to rising temperatures?*

*b) Make clear that local planning policies should support measures for the future resilience of communities and infrastructure to climate change?*

35(a) The *NPPF* (paragraph 99) lists climate change factors as “flood risk, coastal change, water supply and changes to biodiversity and landscape”. Clearly rising temperatures are one factor that should be added but there are plenty of others: extreme climate events (including excessive rainfall, storminess, droughts etc.), damage to agriculture and forestry, loss of soil carbon, to name but a few.

35(b) The *NPPF* already requires new development to avoid increased vulnerability to such impacts (paragraph 99) but this should also be reflected in local plans and regional and national policy. But the *Framework* also needs to stipulate some of the measures which the planning system should require both to reduce greenhouse gas emissions and to mitigate the effects of climate change.

Examples include:-

- avoidance of soil sealing (covering undeveloped land with structures or impermeable surfaces like roads or hard standings) which prevent it carrying out its vital ecosystem roles by restricting greenfield development;
- a very significant modal shift from road transport and flying to more sustainable modes;
- measures to protect high-carbon soils (peatlands) from damaging management and development.

**Question 36**

*Do you agree with these proposals to clarify flood risk policy in the National Planning Policy Framework?*

The white paper says (paragraph A137) that *NPPF* policies on flooding should be robustly implemented. But, as with so many other *Framework* policies, they are frequently undermined by policies imposing unreasonable and unsustainable house building levels on local planning authorities and, as a result, developments continue to be built at vulnerable locations. It should be made clear in any revision that flood considerations are one of the factors which should reduce “five-year supplies” etc.. If development is unsustainable, it’s unsustainable.

The existence of an “exception test” (paragraph 102) is a prime example of this. It is not possible to demonstrate any development in a flood-risk area “will be safe for its lifetime” as it is impossible to predict how climate change will affect rainfall or extreme weather events. All that can be said with certainty is that rainfall will be higher and extreme events more frequent, and that both will be much less predictable.

Certainly all developments should meet the requirements of paragraph 103, except that reference to the exception test, which undermines it, should be removed.

We strongly support the proposal to take cumulative flood risks into account.

**Question 37**

*Do you agree with the proposal to amend national policy to emphasise that planning policies and decisions should take account of existing businesses when locating new development nearby and, where necessary, to mitigate the impact of noise and other potential nuisances arising from existing development?*

We support this proposal but believe that local planning authorities’ planning policies and decisions on new businesses should take account of local economic and employment levels and the availability of housing and refuse them in areas of economic overheating and housing shortage.

**Question 38**

*Do you agree that in incorporating the Written Ministerial Statement on wind energy development into paragraph 98 of the National Planning Policy Framework, no transition period should be included?*

No comment.

**Question 39**

*To support more flexibility in adapting to changing markets and technology, and to further support farming efficiency and productivity, we are seeking views on amending existing agricultural permitted development rights.*

*Should the thresholds set out in Part 6, Class A of the Town and Country (General Permitted Development) Order 2015 (as amended) be amended?*

No.

#### **Question 40**

No comment.

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<sup>i</sup> *Building in the Green Belt? A Report into Commuting in the Metropolitan Green Belt* (London: Royal Town Planning Institute, 2015)

<sup>ii</sup> *National Travel Survey: England 2013* (London: Department for Transport, 2014)

<sup>iii</sup> Transport Planning Society: *Submission to the National Infrastructure Commission Call for Evidence 1: Connecting Northern Cities* (London: TPS, 2016)

<sup>iv</sup> *A Sustainable Stimulus Programme – Smart Growth Insights for Public Investment* [Smart Growth UK, 2017]