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

Please find below the response from North Herts Council in relation to your recent consultation on the reforms to national planning policy.

- 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?**

This proposal does away with challenges to housing figures and encourages LA's to produce and adopt Local Plans in a timely fashion.

It also is a clear indicator to developers that challenge of housing supply will not be a tool by which they can appeal planning decisions.

This is an element of change that we support.

- 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)?**

The addition of buffers makes the process more complex and removing them and adopting a more simplistic approach is supported. This makes things clear for the LA, developers and members of the public too.

We recognise that the removal of the buffers may seem to indicate that not enough housing will be delivered, but the calculation of housing need in the first instance is based on figures and not arbitrary buffer figures

- 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?**

Oversupply should be taken into account. If the LA has been successful in overproviding in the early stages of the Plan period, then this should mean that less delivery is required in the later stages. This helps deal with the delivery of large strategic sites which may boost delivery in the earlier years. It means that there is a clear position of what should

be delivered, what has been delivered and what is left to deliver without the complications of additional pressure to meet additional need relating to oversupply and annual delivery rates.

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

Any planning guidance should be clear that when looking at a 5 year period for housing delivery, there is clarity on the expectations of what the LA should be doing. This could take the simple form of a flow chart, starting with 'does the LA have an up to date Local Plan adopted in the last 5 years?' 'yes'/'no'.

At the moment, there is guidance on when a LA does have an up-to-date Plan, but what is the process if it doesn't? What is the process if the out-of-date plan is not in the control of the LA, for example, an extraordinarily long examination period?

More guidance needs to be provided on these elements as it has already been acknowledged earlier in the text that the majority of LA's have out of date Plans so rather than focusing on the minority, the guidance should be clearer and more succinct for the majority.

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?

It makes sense to bring the Neighbourhood Plan protection in line with Local Plans i.e., from 2 years to 5 years.

It encourages Parishes to have NP and all the protections afforded to them by one and not in relation to the potential delivery failings of the LA.

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?

The entire Framework should be revised to reflect the importance of sustainable development, not only of housing but also other development that our communities need.

The Framework is vague on what are 'important areas, assets or local characteristics' and more specific examples of what these constitute should be provided to reduce the amount of interpretation. Given the amount of Climate Emergencies that have been declared by LA's it would seem that protecting our environmental assets is of primary concern and so the opening chapters should reflect this.

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

We may struggle to simultaneously enable greater consultation and quicker local plans. While these two goals are not necessarily mutually exclusive greater housing development can be stymied by a lack of community consent, and that veto-points within the existing system can lead to frustrating situations for those trying to build affordable housing.

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?

Policy and guidance should be crystal clear on what constitutes exceptional circumstances for the use of an alternative approach to the standard methodology and this should be adhered to strictly by councils and inspectors alike, once those circumstances are digressed from, the floodgates will open for all sorts of interpretation.

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?

The assessment of Green Belt should be made as part of the evidence for a Local Plan (or Local Plan Review if it is deemed necessary). The decision to then alter the Green Belt should be a decision that comes out of the review of the assessment – one should inform the other, in the same way that all other decisions relating to the development of a Local Plan takes place.

With regard to housing densities, this assessment will need to be made as part of the Local Plan process and then the housing need is agreed following an agreement on what would constitute out of character in an existing area. It would be helpful to understand the thought process behind this thinking. Are you considering that quaint rural villages should retain a low housing density whilst town centres could increase densities significantly by virtue of their land use, if so, is this not something that we as planners already consider when looking at housing allocations etc.? It is not clear what this objective is entirely being aimed at and how it differs to what planners already assess.

Past oversupply from a previous/current plan period should absolutely be taken into consideration and off-set against the 'new' housing target. This will not penalise LA's that have delivered above and beyond their current target.

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?

A character assessment of each settlement over 10 dwellings, or every defined neighbourhood if the district is an entire individual settlement, should be carried out to determine the building density of the existing area and then a tolerance level above and below that density can be set to determine a density that is not out of character.

However, there should be a clearer definition of "Significantly out of character with the existing area" to give LA's more certainty.

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?

Provided that 'justification' is not removed from the requirements for plans as a whole, there seems to be no reason why the explicit 'justified' could not be removed. Plan production is an evidence-based process and so 'justification' is always going to be a part of that process and that cannot be removed, however a proportionate approach must be justified whether that is over-providing or under-providing i.e., housing, infrastructure etc

- 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?**

A line has to be drawn somewhere and provided that this is applied consistently to all plans in the plan process then there is no reason why this should be opposed. However, councils should not be penalised should they wish to pause their plan process to incorporate the changes that these revisions to the plan-making process proposes.

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

There are no areas in North Herts that are subject to the Urban Uplift.

- 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?**

There are no areas in North Herts that are subject to the Urban Uplift.

- 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?**

There are no areas in North Herts that are subject to the Urban Uplift.

- 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?**

North Herts does not have a view on this issue at this time.

- 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?**

North Herts does not have a view on this issue at this time.

- 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?**

This would be an extremely useful development, as it would enable LAs to prove that the planning system in their area is working as anticipated, and that sufficient homes are in train. Housing is a strongly cyclical business, and there may be down-turn years where completions do not match requirement, at no fault of the local authority’s own procedures. Therefore, judging local authorities on the metrics they can control – permissions – rather than a metric that they can often only control indirectly – build out – makes more sense.

- 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?**

North Herts does not have a view on the exact number of houses to trigger this impact at this time.

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

North Herts does not have a view on the exact procedure to count deliverable homes at this time.

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

North Herts does not have a view on this issue at this time.

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?

If there is enough evidence to support that social rent is the most affordable housing tenure. To achieve this, the best mechanism would be to introduce a percentage policy to secure social rent housing within the 10% requirement on larger developments; i.e., within the 10% of affordable housing units on a site, 70% should of these homes should be of social rent.

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

If evidence suggests that there is a need for specialist older people's housing. Not clear on what mechanisms the Taskforce will introduce. More information is required to understand what changes are going to be made and the impact of these changes. Local area housing needs assessments should be the main evidence to determine whether elderly accommodation is needed in settlements.

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)?

Our Local Plan is based on the old NPPF so we have not adopted this policy in our Plan. As a Council we would want to support small sites coming forward to help diversify the housing market. Achieving 10% might be difficult for some Councils, as there is a restriction on land available for development; this 10% could be achieved through the brownfield register.

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?

This policy could be strengthened by asking LA to submit monitoring data of housing sites that are proposed to be delivered (or permitted) and their sizes.

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?

There needs to be more clarity on affordable housing for rent and how community-led housing can achieve this.

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?

It would be useful if these exception sites could be supported by national legislation.

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

- Online resources
- Dedicated community-led housing officer
- Local Authority Officer and Council Member training
- Written national guidance on securing community-led housing/good design/ community participation etc.

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

Introduce a national policy percentage requirement for self-build -which community-led developments fall into that Local Authorities should adopt in their Local Plans.

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

There should be some consideration for past behaviour when assessing planning applications. This should be largely looking at whether they've built the development to the agreed plans and all S106 funds have been collected within the agreed timescales.

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

North Herts does not have a view on this issue at this time.

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?

These measures will encourage developers to build more quickly. The requirements of developers to submit housing data to Local Authorities will improve our monitoring systems. In cases where Planners have the option of refusing applications by builders that have had their planning applications lapsed, there needs to be some consideration to external factors that might impact their ability to complete the development.

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?

North Herts supports beautiful housing on principle, and it is only too right that the quality of housing be considered when building out additional properties. However, beauty is deeply subjective, and could lead to increased veto-points where communities could object to a site on beauty, and it would be different for planners to respond with a concrete factual response due to the aesthetic nature of the argument. Therefore, any definition of beauty will need to be agreed with the community in advance in local design codes.

- 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?**

As above

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

Any system of design requirements should be set out very clearly, to establish what needs to be presented, when, and to what specification. Otherwise, there is a risk that this expectation will become another obstacle to housebuilding.

- 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?**

North Herts has no view on this at this time

- 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?**

North Herts has no view on this at this time

- 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?**

In North Herts, land availability is a key issue when it comes to housebuilding. Therefore, measures that may constrain that further would make it difficult to develop affordable housing in the District.

- 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?**

Government needs to publish a table of ready reckoners for all types of built infrastructure, probably based on simple dimensions (volume in the case of buildings) and common construction types (concrete slab + concrete block walls + timber floors + brick facing, or piled foundations + steel frame + concrete floors + glass, etc.)

- 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?**

North Herts has no view on this at this time

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

Considering the long-term use and maintenance of energy sources seems a good idea. Identifying opportunities for decentralised, renewable, or low carbon energy supply systems is in line with the London Plan 2021.

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

Identifying opportunities to repower or life-extend existing renewable sites is a suitable addition to this paragraph.

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?

These changes would give more weight to renewable sites. Might be worth quantifying how much community support would be necessary? As the impacts identified only need to be 'satisfactorily' not 'fully' addressed, will full support need to be given from the local community?

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?

Improving the energy efficiency of existing buildings is a suitable addition to this chapter. NHDC would not object its inclusion.

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?

This is not applicable to us as we have an adopted plan.

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

Under these transitional arrangements, LPAs which have a plan that is 5+ years old have two years to update their Local Plans to the new NPPF. Not sure that this would be enough time to prepare enough evidence work for Plans over 5 years old.

We agree with the 30-month extension for Local Plan reviews after the new reforms go live. Instead of 30 months from when the Local Plan gets adopted. This might impact us as the NPPF states they expect it to go live late 2024.

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

We agree with this timeframe – any plans submitted after June 2025 will be required to comply with the new legal framework.

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

Do existing SPD's transfer across to be Supplementary Plans?

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

The proposal to create a clear, concise, and consistent set of National Development Management Policies would arguably make sense.

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

North Herts have no thoughts on this area at this stage.

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

We should support a preference for densification and redevelopment of brownfield sites that are well-connected by sustainable transport infrastructure and/or services, i.e. close to a railway station or high-frequency bus routes, and integrated into a dense network of safe active travel routes to schools, workplaces, railway stations, shops, leisure/cultural amenities, bus stations/stops, etc. In short, sites that are able to support 20-minute neighbourhoods

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?

Blue / Green roofs and walls should be considered under permitted development.

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?

It's important to note that each individual planning authority is its own place, with its own approach and way of doing things. Therefore, there needs to be respect for these planning authorities, and the funding needed to ensure they can deliver the high-quality decisions that both local communities and planners want to see.

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?

Infrastructure needs to be front-loaded to facilitate development in some cases, otherwise opportunities for development could be missed. This would also help communities accept developments in their area.

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?

North Herts have no thoughts on this area at this stage.

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?

North Herts welcomes any measured that boost the inclusivity of our public spaces, and therefore would welcome engagement and discussion about how to make public spaces more accessible for a wider section of the population.

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?

While this consultation makes clearer the relative importance of the Standard Methodology Housing need, it is still an important figure and one that local plans are potentially judged against, at least in default without any extenuating circumstances. It is also a powerful statistic in establishing what kind of housing need is required both locally and nationally. Therefore, instead of the current system where it is worked out by each

local authority, this figure should be collated and published nationally. There is no reason why this could not be done, as DLUHC statistics for each individual component of the formula are available online from various sources. However, to do this is incredibly difficult for an individual to achieve, and therefore, to boost transparency, these figures should be published at least annually (with each new affordability ratio published) and potentially kept updated as new local plans are posted.

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.

North Herts has no view on this matter at this time.

Should you have any questions or require any points of clarification, please do not hesitate to contact me.

Kind regards



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