



Local Plan Committee

6 February 2023

Item
10

Report of	Sandra Scott, Place and Client Services	01206 282975
Title	Consultation on the revisions to the National Planning Policy Framework	
Wards affected	All	

1. Executive Summary

- 1.1 Members will be aware that the Levelling Up and Regeneration White Paper was published in February last year and the Levelling Up and Regeneration Bill (LURB) was introduced to Parliament in May 2022. It will put the foundations in place for delivering the Government's agenda and deliver against some of the ambitions and planning reforms set out in the Levelling Up White Paper.
- 1.2 On 22nd December 2022 the Government Department for Levelling Up, Housing and Communities, launched a consultation on revisions to the National Planning Policy Framework (NPPF) and views on the proposed approach for a wider review following the progression to Royal Assent of the LURB.
- 1.3 This report summarises the content of the consultation document and is intended to stimulate discussion and help inform the Council's response to the consultation.

The scope of the Consultation

- 1.4 This is a wide-ranging consultation on proposals both for immediate implementation and then for a fuller update of the NPPF later in 2023 following the Royal Assent of the LURB, including the transitional arrangements for the planning reforms. The proposed immediate changes are highlighted in a tracked changes NPPF document which is published alongside the Prospectus which sets out the full extent of the consultation and a total of 58 questions. It provides wording that is indicative of what would be implemented immediately, subject to the results of this consultation. It seeks initial views on matters which will be consulted on further later in the year, these include a full review of the NPPF and the National Development Management Policies (NDMP).

2. Recommended Decision

- 2.1 To provide comments on the consultation proposals which will feed into a response from the Council by the deadline of 2 March 2023.

3. Reason for Recommended Decision

- 3.1 The consultation provides an opportunity to make representations on proposed changes to the NPPF and provide views to help inform a later wider review of the NPPF, planning reform and the scope and approach of National Development Management Policies.

4. Alternative Options

- 4.1 Not to comment on the consultation which would miss the opportunity to influence national policy.

5. Background Information

- 5.1 The NPPF was first introduced in 2012 to consolidate the Government's planning policies for England. It guides Local Planning Authorities in plan making and decision taking. There is an expectation that Local Plan policies are consistent with the NPPF and a statutory requirement for them to be a material consideration in decision taking. The consultation prospectus suggests that the LURB 'seeks to put communities at the heart of the planning system and take forward the continued commitment to build more homes, empower communities and restore pride and deliver beautiful development in the right places'. To support the Bill, changes to the NPPF are required, with some needed immediately to enable the delivery of the Government's commitment to build enough of the right homes, in the right places, with the right infrastructure, ensuring the environment is protected and giving people a greater say about new beautiful development. The changes to the NPPF which are proposed for immediate revision cover the following key matters, which seek to;

- make clear how housing figures should be derived and applied so that communities can respond to local circumstances;
- boost the status of Neighbourhood Plans;
- address issues in the operation of the housing delivery and land supply tests;
- tackle problems of slow build out;
- encourage local planning authorities to support the role of community-led groups in delivering affordable housing on exception sites;
- set clearer expectations around planning for older peoples' housing;
- promote more beautiful homes, including through gentle densification;

- make sure that food security considerations are factored into planning decisions that affect farm land;
- and enable new methods for demonstrating local support for onshore wind development.

5.2 The key points are summarised under the headings in the consultation document;

Providing Certainty through local and neighbourhood plans (Chapter 3) and reforming the 5 Year Housing Land Supply

- 5.3 The Government wants to promote greater importance of a genuinely plan led system believing that the best way to achieve the wider objectives is for every Local Authority to have an up-to-date plan in place. Currently only 40% of Local Authorities in England have an up-to-date plan adopted. It is also recognised that it is important to ensure that once in place, plans need to be effective and deliverable. The Bill will make an important change by increasing the weight to be given to adopted plans. To further support this an immediate change is proposed (to take effect from Spring 2023) to the five-year housing land supply rules, where there are up to date plans and made neighbourhood plans.
- 5.4 It is proposed to remove the requirement for local authorities with an up-to-date local plan (where the housing requirement as set out in strategic policies is less than 5 years old) to continually demonstrate a deliverable 5-year housing land supply.
- 5.5 The Framework currently requires local authorities to include a buffer of 5%, 10% or 20% on top of their 5-year housing land supply, where strategic policies are more than 5 years old and as a consequence of the results of Housing Delivery Test (HDT in the case of 20%). It is recognised that these buffers can bring complexities which do not necessarily bring supply rewards. It is therefore proposed to remove the current requirement to include a buffer for 5 year housing land supply calculations including the 20% as applied by the HDT.
- 5.6 A further change proposed seeks to bring the position on oversupply of housing into line with that for undersupply. This will enable a local authority to include historic oversupply in its 5 YHLS calculations to demonstrate meeting the overall housing requirement. This will help address current issues when a local authority over delivers early in the plan period and may later struggle to demonstrate a 5 YHLS, often resulting in the presumption in favour of sustainable development applying and resulting in additional development on land not allocated in the local plan or in line with local policies.
- 5.7 The consultation proposes to boost the status of Neighbourhood Plans with an immediate change to paragraph 14 of the NPPF. This will provide additional protections for neighbourhood plans in circumstances where a local planning authority's policy for the area covered by the neighbourhood plan are

out-of-date. First, it is proposed to extend protection to neighbourhood plans that are up to 5 years old instead of the current 2 years. Second, to remove tests which currently mean local planning authorities need to demonstrate a minimum housing land supply and that they have delivered a minimum amount in the Housing Delivery Test for Neighbourhood Plans to benefit from the protection afforded by the Framework.

- 5.8 ***Initial Officer Comment:- These changes are welcomed and considered to be beneficial to CCC.***

Planning for Housing (Chapter 4)

- 5.9 Proposed amendments to paragraphs 1 and 7 of the NPPF are intended to signal that providing for necessary development that is integrated with local infrastructure is a core purpose of the planning system, while not negating the fundamental importance of respecting the overarching economic, social and environmental objectives.
- 5.10 The standard method for assessing local housing need was introduced in 2018 to ensure that plan making is informed by an objective assessment of projected household growth. As the Colchester Local Plan was prepared under the previous transitional arrangements due to the timing of its submission, the Adopted Plan for Colchester is based on the former evidence based approach of Objectively Assessed Housing Need. This consultation does not propose any changes to the standard method. However, it does indicate that following the publication of the 2021 Census a review of the implications of the standard method will be undertaken at that time. This is likely to be 2024.
- 5.12 This consultation seeks views on proposals which are designed to support local authorities to set local housing requirements that respond to demographic and affordability pressures while being realistic given local constraints. Being clearer about how local constraints can be taken into account and taking a more proportionate approach to local plan examination is intended to speed up plan-making. Changes to the HDT are also intended to support a plan-led system, by preventing local authorities who are granting sufficient permissions from being exposed to speculative development, which can undermine community trust in plan-making. Views on the implications of future changes are sought now to enable later focussed updates to the NPPF to quickly have an impact on plan making and on speculative development in those areas granting enough permissions.
- 5.13 A change to the NPPF is proposed to take effect from Spring 2023, to make it clearer that the outcome of the standard method is an advisory starting-point to inform plan-making – a guide that is not mandatory – and it is also proposed to give more explicit indications in planning guidance of the types of local characteristics which may justify the use of an alternative method, such

as islands with a high percentage of elderly residents, or university towns with an above-average proportion of students.

- 5.14 The changes which relate to matters that may be relevant to consider whether a plan can meet the identified housing need include;
- building at higher densities if this would be significantly out of character and conflict with other design principles;
 - if it relates to Green Belt land;
 - the ability to take into account past over-delivery whereby if permissions that have been granted exceed the provision made in the existing plan, that surplus may be deducted from what needs to be provided in the new plan.
- 5.15 The consultation is proposing changes to the NPPF which seek to ensure that plans are subject to proportionate assessment when they are examined. As such it is proposed to simplify the test of “soundness” and remove the requirement to be “justified”. Instead the examination will assess whether the local planning authorities proposed target meets need so far as possible, takes into account other policies in the NPPF and will be effective and deliverable. This change will not apply to emerging plans which are significantly advanced in their progress.
- 5.16 The urban uplift will continue to apply to the top 20 most urban centres in England. Proposed amendments to the NPPF will make it clear how the uplift should be applied.
- 5.17 For emerging plans which included both a policies map and proposed allocations towards meeting housing need and have been submitted for examination or where they have been subject to a Regulation 18 or 19 consultation those authorities will benefit from a reduced housing land supply requirement. This will be a requirement to demonstrate a 4-year supply of land for housing, instead of the usual 5, for a period of 2 years from the point the changes come into effect in the NPPF. As Colchester benefits from an up to date Adopted Local Plan this does not currently apply.
- 5.18 A further new addition proposed with effect from Spring 2023 is to introduce a new permission-based test, where a local authority that has sufficient permissions for enough deliverable homes to meet their own annual housing requirement. Where this applies it will in effect “switch-off” the presumption in favour of sustainable development. This is intended to apply the HDT in a way which does not penalise local planning authorities unfairly when slow housing delivery results from developer behaviour rather than Councils not granting permissions. Alongside consultation on this immediate change to the NPPF, views are also sought on the right approach to applying Housing Delivery Test consequences pending the 2022 results.

- 5.19 ***Initial Officer Comment: The changes proposed which are relevant to Colchester are welcomed and considered to have potential benefits to CCC. However, the Government have maintained their target of building 300,000 new homes each year so the exceptions to adopting a lower housing target are likely to be limited, more details on this are required. CCC may consider pointing out that the Green Belt is in need of review and should not automatically be presumed not to be suitable for building.***

A planning system for communities (Chapter 5)

- 5.20 The consultation includes some specific changes to the NPPF both immediate and longer term to support the delivery of ‘the right types of homes and to meet the diverse needs of the local community’. These relate to delivering more homes for social rent and more older people’s housing.
- 5.21 The consultation also seeks views on whether the NPPF (paragraph 69) can be strengthened to encourage greater use of small sites, particularly in urban areas to speed up the delivery of housing, give greater confidence and certainty to SME builders and diversify the building market. A fuller review on these matters will follow and take into account views provided in this consultation response.
- 5.22 Views are sought about an amendment to the definition of affordable housing in the NPPF to enable providers that are not registered providers, in particular community-led housing and Almshouses to apply to the definition. Views are also invited for any ideas on the approach to the exceptions site policy to be made easier to support community led housing.
- 5.23 Although the vast majority of developers and landowners follow the rules, there are a minority who frequently and repeatedly behave irresponsibly, failing to deliver their legal commitments and breaching planning controls. The consultation is seeking views on options for potential ways to improve developer accountability. The options presented are to make bad past behaviour a material consideration when a planning application is determined or allowing local planning authorities to decline to determine applications submitted from applicants with a past record of bad behaviour. This is a similar principle to the amendment already made to the LURB allowing local planning authorities to decline to determine a new application where the build out of development has been too slow.
- 5.24 Additionally a package of further measures to help address poor build out will be required through the LURB including the requirement for Development Commencement Notices and powers to enable completion notices to be served requiring completion with a specified time, with failure to do so resulting in a planning permission lapsing. In addition, housing developers will be required to report annually to local authorities on their actual delivery

measured against a trajectory submitted on commencement. Following the passage of the Bill further changes to the NPPF will be proposed including;

- Publishing data for sites over a certain size where developers have failed to deliver;
- Require developers to explain how they propose to increase the diversity of housing tenures to maximise the schemes absorption rate;
- Delivery can be a material consideration – trajectories proposing a delivery rate which is too slow could be refused.

5.26 *Initial Officer Comment: general support although it should be noted that there are little or no instances of slow delivery in Colchester.*

Asking for beauty (Chapter 6)

5.27 The NPPF was updated in 2021 to strengthen the emphasis on beauty, placemaking and good design, including reference to the National Model Design Code (NMDC) which is now widely available to assess design of development. Further amendments to the NPPF are now proposed to emphasise further the role of beauty and placemaking. Changes will also make a stronger link between good design and beauty through amendments to Chapters 6, 8 and 12 of the NPPF. Additional references to beautiful development are proposed to address this.

5.28 Greater clarity and quality of drawings and plans linked to planning conditions on design and beauty will be required to support more effective enforcement.

5.29 Amendments to the NPPF to encourage local authorities to embrace higher density development especially recognising building upwards on existing development. Specific reference to mansard roofs as an appropriate form of upward extension to recognise their value in securing gentle densification is proposed as an amendment to paragraph 122e of the NPPF.

5.30 ***Initial Officer Comment: the proposals are generally welcomed as the objective of promoting good / improved design is supported. It should be noted that there are limited opportunities in Colchester for mansard roofs.***

Protecting the environment and tackling climate change (chapter 7)

5.31 The NPPF already places environmental objectives at the heart of the planning system. The Environment Act has further strengthened the role of the planning system, through the requirement for mandatory Biodiversity Net Gain which will come into force later this year. Other measures include Local Nature Recovery Strategies which will set the foundations for planning to have a more proactive role in promoting nature's recovery. Further changes to the planning system are proposed which will seek to deliver greater environmental improvement. The changes committed to are designed to support more holistic placemaking – through application of the National

Design Guide, National Model Design Code (NMDC) and local design codes. This consultation is seeking views on the approach to carbon assessments and the role planning can play in supporting climate adaptation.

- 5.32 One immediate change to the NPPF proposed to take effect in Spring 2023 is on specific changes to make sure that the food production value of land is reflected in planning decisions.
- 5.33 Views are also being sought on how policy and associated design guidance can be strengthened to promote small scale changes that can enhance biodiversity and support wildlife recovery. The NMDC already goes some way to promote design that is more wildlife friendly. Opportunities to go further will be encouraged and ideas are invited in response to this consultation. Further guidance will be consulted on later in the year about reflecting Local Nature Recovery Strategies in the planning system and the protection of Ancient Woodlands.
- 5.34 The Government's Net Zero Strategy commits to a fuller review of the NPPF following Royal Assent of the LURB to ensure they contribute to climate change mitigation and adaptation as fully as possible. This will also reflect the government's Transport Decarbonisation Plan which seeks to further strengthen the links between planning and transport in pursuing sustainable patterns of development and an improved built environment; and we will expect plans to show how their approach to identifying land should support this.
- 5.35 This consultation seeks initial views on approach and methods for embedding carbon assessments in planning policy. Further consideration of effective and proportionate evidence which may support local authorities in plan making and decision taking will be subject to future consultation.
- 5.36 Changes to the NPPF in 2021 strengthened guidance in relation to flood risk management, climate change and designing and shaping sustainable places that are resilient to and appropriate for current and future climate impacts. Ongoing review linked to the flood management and review in respect of other legislation implementation may inform further future changes. In addition policy guidance will be reviewed in relation to the production of Strategic Flood Risk Assessments to encourage maximum coverage and more frequent updates to ensure up-to-date assessments are available to support both plan preparation and decision making.
- 5.37 Views are being sought on how planning policy could support climate change adaptation further including through nature based solutions which provide multi-functional benefits.
- 5.38 ***Initial Officer Comment: Officers are encouraged that the consultation recognises that leaving the environment in a better state and tackling climate change are two of the greatest long-term challenges facing the world today. The proposals for planning to have a more proactive role in***

promoting nature's recovery and support for climate change adaptation are welcomed. These changes will be key in the review of the local plan.

Onshore wind and energy efficiency (chapter 8)

- 5.39 The consultation includes changes to planning policy for onshore wind to deliver a more localist approach that provides local authorities more flexibility to respond to the views of local communities. It also proposes changes to the National Planning Policy Framework to fulfil commitments in the British Energy Security Strategy to support the repowering of onshore wind and review the barriers when installing energy efficiency measures. These changes are in amended wording of paragraphs 155 and 158 of the NPPF. In addition changes to footnote 54 to reflect higher expectations of developers for community engagement where planning permission is required.
- 5.40 In addition a new paragraph 161 is proposed in the NPPF to require significant weight to be given to proposals which allow the adaptation of existing buildings to improve the energy performance. This is particularly relevant to Listed buildings and conservation areas.
- 5.41 ***Initial Officer Comment: the proposals are generally supported as a means of facilitating greater use of renewable energy. However, care will be needed to ensure no harm to listed buildings and conservation areas.***

Preparing for the new system of plan making (chapter 9)

- 5.42 The LURB sets out reforms to the local plan-making system - aiming for plans to be prepared more quickly with the content simplified. In addition, they will be afforded greater weight for decision taking with less circumstances when unplanned development could be approved. Subject to parliamentary approval it is anticipated that these reforms will be implemented from late 2024. This consultation seeks views on the transition timeline for switching from the current to new systems.
- 5.43 Where up to date plans are not in place, or plans are being reviewed, it is proposed that authorities will have until June 2025 to submit their plans (including Neighbourhood plans) in order to be examined under the current legal framework / system, with a deadline of 31st December 2026 for these plans to be adopted.
- 5.44 This consultation is only seeking views on the transitional arrangements for the reformed system. For information a summary of the key proposal being progressed through parliament set out in LURB is provided below together with a reference to the timeline proposed for transition.
- Requirement for work to commence on new plans no later than 5 years after adoption of the plan;

- Where adopted plans are more than 5 years old when the new system is live (end 2024) work on a new plan will need to commence immediately.
- Where local authorities have an adopted plan which is less than 5 years old when the new system goes live they will not be required to commence a review until it is 5 years old. If the plan will become out of date within 30 months of the system going live the current adopted plan will be considered to remain up to date for decision making for 30 months after the system starts. This is likely to apply to Colchester if the new system goes live in December 2024. This would mean that the latest time a plan review could commence is June 2027, as opposed to February 2026 based on the Section One Plan adoption date of February 2021.
- Plans can be reviewed earlier if local authorities wish to.
- Once work on a new plan has commenced it is expected to be completed / adopted in 30 months.
- Supplementary Planning Documents will be replaced by Supplementary Plans. These will have the same weight as Local Plans. Existing SPDs will remain in force until the local authority is expected to adopt a new-style plan.
- Neighbourhood Priorities Statements will be introduced as a means for communities to formally input into the preparation of local plans.
- Local Plans will be supported by new Infrastructure Delivery Strategies and the LURB also provides for a new Infrastructure Levy.
- The statutory duty to cooperate is to be abolished by the LURB and will be replaced with a new 'Alignment Policy' to secure appropriate engagement between authorities where strategic planning considerations cut across boundaries.

5.45 *Initial Officer Comment: The transitional timeframe is reasonable and potentially gives CCC a little longer if required. The timescale of 30 months for Plan preparation seems ambitious, this may be redressed when more details are known about plan making expectations and the implications of the changes to system including the test of soundness, duty to co-operate and scope and content of National Development Management Policies.*

National Development Management Policies (NDMP) (Chapter 10)

5.46 The consultation sets out the Government's initial thinking about the scope and content of the NDMP on which views are being sought. The LURB sets out measures to improve all plans and give more weight to up to date plans in decision taking. This will be complemented by creating a concise set of NDMP for nationally important matters, which will be afforded the same weight as policies in local plans, neighbourhood plans and other statutory plans.

- 5.47 The current thinking is that the NDMP should cover matters which apply regularly in decision making on general issues such as conserving heritage assets, development in the Green Belt and areas of high flood risk.
- 5.48 The NPPF covers guidance on a full range of topics relevant to development management decisions, but currently they have no statutory status. The NDMP would change this.
- 5.49 In addition to the existing NPPF policies aimed at decision-making which would be one category of NDMP; the Government suggests two others:
- Selective new additions to reflect new national priorities, for example net zero policies that it would be difficult to develop evidence to support at a district level, but which are nationally important.
 - Selective new additions to close 'gaps' where existing national policy is silent on planning considerations that regularly affect decision-making across the country (or significant parts of it).
- 5.50 NDMP are not intended to impinge on local policies for shaping development, nor direct what land should be allocated through the plan-making process.
- 5.51 This consultation asks whether respondents agree with the principle of selective additions and views on those listed and if there should be others. The selective additions / gaps as additional potential topics to develop NDMPs are identified as: carbon reduction in new developments; allotments; and housing in town centres and built-up areas
- 5.52 The paper suggests that inconsistencies between National Policy and Local Policy should be much less frequent under this new system. Where conflict does arise the LURB provides that the NDMP would take precedence.
- 5.53 ***Initial Officer Comment: Officers are concerned about a one size fits all approach. Are policies which are appropriate in one part of the country suitable and equally as applicable in Colchester? On the other hand having certainty at a national level on some topics may be helpful and avoid disputes with applicants, ie carbon reduction. It will be important that CCC Officers and Members are fully engaged as further detail emerges.***

Enabling Levelling Up (Chapter 11)

- 5.54 The consultation acknowledges that changes are needed to the NPPF section concerned with “building a strong, competitive economy” and it is indicated that these will be subject to a separate consultation. The basis of this is indicated as including, a more positive framework for supporting economic development, reviewing the approach to supporting employment land, and the consideration of supply chain and connectivity issues.

- 5.55 This consultation does not propose any amendments to the NPPF in respect of Levelling Up. There is a brief section at Chapter 11 of the supporting consultation detail, titled 'Enabling Levelling Up' but there appears to be no reflection of 'Levelling Up' priorities geographically or spatially within the consultation and the consultation invites views on the policies that could be included to achieve the 12 levelling up missions in the Levelling Up White Paper.
- 5.56 There is specific reference inviting views on the inclusion of policies in the wider review of the NPPF to place more emphasis on ensuring that women, girls and other vulnerable groups feel safe in public places.
- 5.57 ***Initial Officer Comment; more detail is required.***

Wider Changes to the NPPF in the future (Chapter 12)

- 5.58 The extent of further changes to the NPPF as part of a full review to reflect the passage of the LURB are summarised as;
- Achieving sustainable development
 - Plan-making – to reflect amendments made by the LURB
 - Decision-making - to reflect the role of National Development Management Policies in decision-making, the introduction of Environmental Outcome Reports and other changes introduced by LURB;
 - Delivering a sufficient supply of homes;
 - Building a strong, competitive economy
 - Ensuring the vitality of town centres
 - Promoting sustainable transport
 - Achieving well-designed places - to reflect provisions in the Bill on mandatory authority wide design codes and supplementary plans.
 - Protecting Green Belt land
 - Meeting the challenge of climate change, flooding and coastal change
 - Conserving and enhancing the natural environment
 - Conserving and enhancing the historic environment
- 5.59 Throughout the consultation document a number of other significant proposed changes are referred to for future consultation which are anticipated to include;
- An initial first draft National Development Management Policies
 - NPPF which is refocused on plan-making policies
 - potential ways to improve developer accountability and, such as to take account of past irresponsible behaviour in decision-making

- introduction of a penalty against developers who build out “too slowly”
- national policy on build out rates
- permitted development rights and role of design codes
- details of the infrastructure levy
- increase to planning fees
- exploring how to do more through planning to measure and reduce emissions in the built environment, ahead of the wider NPPF review.
- review the implications on the standard method of new household projections data based on the 2021 Census, which is due to be published in 2024.
- the details of the “*alignment policy*” that will replace the duty to cooperate.

Consultation Questions

5.60 The full list of questions posed in the consultation are listed in the Appendix.

6. Equality, Diversity and Human Rights implications

6.1 The consultation includes a question in respect of the Public Sector Equality Duty.

7. Strategic Plan References

7.1 All themes in the Strategic Plan are relevant, in particular: delivering homes for people who need them; creating safe, healthy and active communities and tackling the climate challenge.

8. Consultation

8.1 The Government is carrying out this consultation and the deadline for responses is 2 March 2023.

9. Publicity Considerations

9.1 The consultation has already generated significant national publicity and it is expected that this will continue. Local Stakeholders will have an interest in the consultation including the Council’s response.

10. Financial implications

N/A

11. Health, Wellbeing and Community Safety Implications

N/A

12. Risk Management Implications

N/A

13. Environmental and Sustainability Implications

- 13.1 The Council has declared a Climate Emergency and has committed to being carbon neutral by 2030. The purpose of the planning system is to contribute to the achievement of sustainable development as defined in the National Planning Policy Framework. Achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways. These are economic, social and environmental objectives.

Appendix:- Questions to the Consultation

Background Papers

Levelling-up and Regeneration Bill: reforms to national planning policy- [The Prospectus](#) which sets out the full extent of the consultation.

Proposed amendments to the NPPF 2021- a [tracked changes NPPF document](#)