

<b>Bath &amp; North East Somerset Council</b>	
MEETING	<b>Planning, Housing &amp; Economic Development Policy Development &amp; Scrutiny Panel</b>
MEETING	<b>4<sup>th</sup> July 2017</b>
TITLE:	<b>Housing White Paper Consultation</b>
WARD:	All
<b>AN OPEN PUBLIC ITEM</b>	
<b>List of attachments to this report:</b> <b>Attachment 1: Responses to the White Paper Consultation Questions</b>	

## **1 THE ISSUE**

- 1.1 The Government is proposing changes to the Housing and Planning legislation. A consultation was undertaken in the Spring of 2017. This report sets out for the Planning, Housing & Economic Development Scrutiny Panel the key issues and the responses provided by B&NES as part of a West of England response.

## **2 RECOMMENDATION**

- 2.1 The Panel is asked to Note and comment on the changes to housing and planning legislation proposed in the White Paper

## **3 RESOURCE IMPLICATIONS (FINANCE, PROPERTY, PEOPLE)**

- 3.1 The Council has statutory obligations under the planning legislation and these could be affected by changes in new legislation. The White Paper states that Local authorities will be able to increase fees by 20% if they commit to invest the additional fee income in their planning department. It also refers to increase of a further 20% for those authorities who are delivering the homes their communities need. It is not clear when legislation will be brought forward to enact this.

## 4 STATUTORY CONSIDERATIONS AND BASIS FOR PROPOSAL

- 4.1 Any changes to the planning & housing legislation would have direct implications for the operation of Council services. The potential areas of change are set out in section 5 below.

## 5 THE REPORT

### Background

- 5.1 The Housing & Planning White Paper (HWP) was published on 7<sup>th</sup> Feb, and the consultation ran to 2<sup>nd</sup> May. A joint West of England response was submitted.

### Consultation

- 5.2 The Headline issue is still a significant focus on provision of housing and accelerating delivery. The HWP highlights the importance of a plan-led approach, the need for up to date local plans, and policy proposals intended to encourage development to come forward in the 'right places'. This has particular implications for the Joint Spatial Plan and the new B&NES Local Plan.

### Key Issues

- 5.4 ***Status and relationship of Development plans:*** The preparation of statutory development plan documents at the strategic level will be made compulsory in the National Planning Policy Framework. This includes ref to a strategic level plan such as a Joint Spatial Plan.
- 5.5 ***Housing numbers:*** The Housing White Paper states that 40% of LPAs do not have a plan in place to meet the projected growth of households in their area. A standard formula for calculating housing need. This will be subject of a further consultation later in the year.
- 5.6 ***Housing Delivery:*** The paper acknowledges the issue of delivery and the implementation gap between planned supply and that delivered on the ground. It notes that the pace of development is too slow- and recognises the motivations and implications of unimplemented planning permissions, 'speculators purchasing the land and then sit back as prices continue to rise'. Whilst this view is understood, the development industry has been clear that in their view land banking is not the issue, particularly in areas such as the West of England where demand is so high.
- 5.7 The development industry has suggested that this is business planning by the housebuilding industry. The officer view is that whilst this is may not strictly be land banking, there is an issue in the West of England regarding land owners having high aspirational values for the land, and in many cases developers buying options on the land and strategic options trading, and delivering housing in relation to the requirements of a commercial business model.
- 5.8 Fundamentally the current system drives up land values. Beyond CIL and setting out the planning requirements at an early stage, there is no mechanism or policy proposals in the White Paper, for uplift in land value capture to be reinvested back into the development/infrastructure/communities. It is a potential missed opportunity that the White Paper does not address this issue directly.

- 5.9 **Ways to boost supply:** There is acknowledgement that the structure of the house building industry makes it harder to increase supply. Diversifying the market is acknowledged and proposals encouraged around bringing in new players, Small Medium Enterprises, construction companies, methods of modular construction, public intervention/delivery (Joint delivery vehicles or similar).
- 5.10 **Affordability:** There is recognition in the White Paper that across all tenure types, costs are a disproportionate amount of people's income. Affordability therefore is an issue that is impacting across all section of our communities. The HWP sees a significant policy shift and it purports to redefine what is meant by Starter Homes. However, it has been redefined to relate to Low Cost Home Ownership on threshold sites. This change in emphasis significantly improves the ability to deliver genuine affordable homes in the West of England.
- 5.11 Whilst the white paper is focused upon housing numbers and accelerating delivery it also includes other housing related initiatives. These include: an expanded and more flexible Affordable Housing Programme; making rents fairer and more transparent; developing a workable approach to funding supported housing; and enhancing homeless support and assistance. However, these initiatives are not subject to the white paper's consultation questions and had already been subject to previous announcements.

## 6 RATIONALE

- 6.1 None. This paper is for information

## 7 OTHER OPTIONS CONSIDERED

- 7.1 None, any legislative changes will be compulsory on Local Authorities

## 8 CONSULTATION

- 8.1 This paper was prepared by Housing & Planning Officers in the West of England and submitted as part of the Government's consultation on the Housing White Paper

## 9 RISK MANAGEMENT

- 9.1 A risk assessment related to the issue and recommendations has been undertaken, in compliance with the Council's decision-making risk management guidance.

<b>Contact persons</b>	<i>Simon de Beer 01225 477616/Lisa Bartlett 0125 477550</i>
<b>Background papers</b>	<i>DCLG <a href="#">Housing White Paper</a> February 2017</i>
<b>Please contact the report author if you need to access this report in an alternative format</b>	

## ATTACHMENT 1- RESPONSES SUBMITTED TO THE CONSULTATION QUESTIONS

### Question 1a) 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?**

The West of England welcome the proposed approach set out in the Housing White Paper (HWP) at paragraphs A14 to A17 in principle. However, further clarification is sought on whether it will be to locally determine at which level of plan-making allocations should apply.

The current approach in the West of England is a two tier local plan system with the Joint Spatial Plan being a tier 1 plan-strategic identifying locations and tier 2 being local plans which will allocate locations.

Whilst the principle and intent behind the HWP is supported, it would be helpful if the NPPF could recognise that it is for authorities, working jointly as appropriate, to decide what is the most effective way to set out their key strategic priorities. The scope of a strategic level plan does not therefore need to address all the strategic priorities listed in the NPPF at paragraph 156, but the key ones relative to the area being planned for. The emphasis should be to ensure the NPPF requires authorities to clearly set out the scope of each DPD they are intending to produce either collectively or individually. Consequently, it should be sufficient for the NPPF to require that when taken collectively the individual DPD components that comprise the council's local Plan deliver against paragraph 156, rather than seek to be prescriptive about the content of each part.

To illustrate this point, we would draw CLGs attention to the West of England's Joint Spatial Plan (JSP). [Joint Spatial Plan](#). This is a high level spatial plan being prepared jointly by the unitary authorities of Bristol City, Bath & North East Somerset, North Somerset and South Gloucestershire. Its scope has intentionally been kept very narrowly defined to cover: establishing the strategic quantum of growth (homes and jobs), the spatial strategy to accommodate that level of growth and the infrastructure needed to deliver it. It is considered this Plan will provide the strategic planning strategy to demonstrate a coherent spatial approach for the sustainable planning of the West of England City Region and to provide an over-arching framework to guide each Council's respective local plans. If CLG would like to understand more about the JSP the 4 councils would be happy to meet with CLG officers.

In the West of England there is a history of joint working on strategic planning matters. It would be helpful if any changes to the NPPF recognised that joint working / collaboration can take a variety of forms and maintaining the flexibility of choice is important in response to local geographical and political contexts, particularly if the strategic plan area isn't covered fully by a Mayoral plan.

**Question 1b) Do you agree with proposals to:**

**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?**

The West of England welcome the opportunity for the Mayoral Spatial strategy to have the flexibility to allocate strategic sites if appropriate and with unanimous agreement. As noted above further clarification is sought on whether other jointly prepared plans (not covered entirely by combined authorities) would also be able to do so. It would be helpful if any changes to the NPPF recognised that joint working / collaboration can take a variety of forms and maintaining the flexibility of choice is important in response to local geographical and political contexts, particularly if the strategic plan area isn't covered fully by a Mayoral plan.

**Question 1 c) Do you agree with proposals to:**

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

The West of England in principle support this proposal in that guidance would be helpful, but this must recognise the need for proportionality to the level of the plan and issues to be addressed, prescriptive requirements could be unnecessary and costly. It would be helpful to have further clarity on whether balance and planning judgement depending on local circumstances will still be applied given that evidence is to inform policy decision making. Further detail would be welcomed given the nature of the proposal is currently high level. Note the current focus in the HWP is on the capacity of each area to accommodate development but there is also the need to consider other factors of soundness around deliverability, effectiveness and how these factors would be weighed.

**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 NPPF as currently written suggest a single local plan is being prepared and will be subject to the test of soundness. Under the proposed reforms there will need to be clear acknowledgement that an area may be covered by one or more DPDs but that together these should be read as a whole and make the strategic and local plan for an area and meet the requirements therefore of NPPF para 156.
- The level of evidence and scrutiny will need to be proportionate to the type of plan being prepared.
- Consistent examination procedures are suggested to avoid different types/level of plans resulting in different outcomes at examination –i.e the reopening of issues such as setting the overall housing requirement.
- For public consultation the requirement should remain in line with current regulations and also be proportionate to the level of plan being prepared?

We welcome the flexibility of reg 18 in exploring and developing options in the plan making process. This flexibility needs to be retained and could be helpful in guiding authorities to an appropriate scope for a strategic level plan

### **Question 3a)**

**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?**

We welcome the expectation for authorities to have clear policies for addressing the housing requirements of groups with particular needs. It is critical that policy is based on robust evidence and for the policy response to be locally determined with the ability for it to be flexible to suit local needs.

### **Question 3b)**

**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?**

The introduction of a standard methodology is supported in principle, as is the commitment to consult on the proposed methodology and for what constitutes a reasonable justification for deviating from the standard methodology and making it explicit in the NPPF. Subject to this being undertaken to provide simplicity and clarity on the approach to establishing housing requirements, and including guidance on affordability thresholds for affordable housing and how to treat benefit income, standardising the process for assessing need will potentially support plan making establishing a baseline for housing supply and delivery. However, any methodology introduced should not be too inflexible or prescriptive. It is important this continues to be locally determined and that communities are not faced with having national housing targets imposed.

West of England would welcome early detail/involvement on the consultation so as not to provide unnecessary delay to the plan making process for the JSP. We would also welcome clarification on proposals for the Secretary of State giving additional time where joint ambitious plans are being brought forward.

It is crucial that the suggested timetable for this change is adhered to. Any delay or slippage will have a detrimental effect on plan-making. It is also critical that appropriate transitional arrangements for plans which are already in preparation based on up-to-date completed or revised SHMAs should be made explicit, to avoid abortive work and delay for such plans, and unnecessary challenge. Plans should not be unnecessarily delayed by these proposed changes where they are expected under current local development scheme timetables to be at Regulation 19 and or submission stages by early 2018. Given the clear intention as set out at paragraphs A.7 – A13 of this HWP for CLG to intervene where plan preparation falls below acceptable performance, clear guidance from CLG will greatly assist councils to manage this risk and to ensure their evidence base supporting plan preparation is robust.

#### 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?;**

The proposals are supported in principle, assuming that suitable land is determined through an appropriate evidence base – including Housing and Employment Land Availability Assessments, and consideration of all parts of the evidence –need, sustainability etc. It would also be helpful to have explicit definitions of a ‘clear strategy’, and ‘maximising’ .**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?;**

Whilst the nature of the policy issues that may be considered as strong reasons, have been identified i.e. Green Belt, clarification is sought on how /what format strong reasons need to be set out and how they will be evaluated. The wording is ambiguous and to avoid unnecessary delays in the plan-making process clarification is sought on how a case for strong reasons will need to be made i.e is it still matter of planning judgement or will there be further guidance.

**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?**

It is noted that this list is extensive and could constrain an authority’s ability to deliver their objectively assessed need (OAN). References to ‘locations at risk of flooding’ is not clear. This proposed revised part of the NPPF could open up authorities to challenge from objectors on why an authority has not proposed that there are strong reasons why an OAN cannot be met (for example if any authority follows a sequential approach and identifies exceptional circumstances). The implications of this element of proposed revision to the NPPF, requires further consideration.

**d) its considerations are re-ordered and numbered, the opening text is simplified and specific**

We would support clear and simplified text in the NPPF, with the exception of the concerns raised at question 4a, b and c.

#### 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?**

The West of England support the principle of disposing at less than best consideration where there will be a better planning outcome and welcome streamlining proposed with removing SoS consent (subject to threshold)

#### 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 response.

## 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?**

Yes, this is good planning practice and should be applied locally as appropriate.

Clarification/encouragement in planning policy is welcomed.

## 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?;**

Yes in principle. The Authorities within the West of England are already working closely to assist neighbourhood plans to be brought forward, we welcome positive change to the NPPF to further encourage these plans to identify small sites 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?;**

Yes in principle. The Authorities within the West of England are already working closely with communities to identify opportunities which would support services and assist in meeting need. However, the current definition of 'rural' in the NPPG small sites policy that prevents the delivery of planning obligations, including affordable housing, is directly impacting on the WoE UA's ability to meet housing needs. It is strongly suggested that this definition is widened to all designated rural areas, including those designated by Statutory Instrument, and not just those rural areas designated in the 1985 Housing Act. The current NPPG wording excludes all rural areas in North Somerset, Bath & North East Somerset and South Gloucestershire from securing planning obligations on the small sites coming forward as our villages are designated rural in SI no 621 that came into force in April 1997 .

The Council should be able to better influence housing mix and tenure to meet identified needs in rural areas to ensure development meets local housing demand, including the need for affordable housing

**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?;**

Rural Exception sites can provide the sole opportunity to deliver affordable housing to meet local needs in villages, particularly if the definition of 'rural' in NPPG is not widened to include all formally designated rural areas. Delivery of exception sites is complex and the use of an element of market housing which could incentivise land owners, as well as cross-subsidise delivery of affordable homes, is to be welcomed. Whilst the numbers of homes delivered under exception sites is not significant, for Council's seeking to make a positive impact on meeting affordable housing need as well as meeting general housing targets, the policy is often under-utilised. Exception sites need to be delivered of an appropriate scale to the development and not simply

limited to 'small sites' but recognition of their primary purpose has to be retained and the use of market housing must only be seen as an enabling, and not primary, use of the site. Perpetuity clauses and local connection clauses for the affordable housing units remain an essential part of exception site permission, for both rented and affordable sale products.

**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?;**

Given delivery issues with meeting all housing needs from a few large strategic sites, and the need for housing and other growth to support thriving rural villages, a clear requirement and mandate to achieve a diverse portfolio of site sizes, including small sites will assist in preparing sound and robust plans. However, when plans are being prepared for authorities with larger (than 1000 per year) housing targets, there is a need to recognise that requiring 10% of all housing being provided on sites for 10 dwellings or less will result in greater length of plan preparation and consultation - as more sites, in more locations will need to be considered, appraised and consulted upon, more stakeholders involved and potentially a greater level of consideration at EiP. This could also require sites to be allocated in less sustainable locations simply on the basis of fulfilling an NPPF required quota, thereby undermining communities' trust and confidence in the planning system. As an alternative it may be preferable for the NPPF to make it clear that plans will be expected to show they contain a suitable range and type of sites.

**e) expect local planning authorities to work with developers to encourage the sub-division of large sites?; and**

In relation to plan making, the desire for sub-division of larger sites into sites with earlier delivery time frames is supported. However, there would be a need for more effective policy or legislative tools if local authorities are to go beyond "encouraging" and requesting developers/land owners to consider sub dividing any sites submitted through a call for sites exercise if the Government is intent on fulfilling its HWP commitment to hold developers to account. However, the number of developers and landowners is an important factor in how complex this can be. Negotiating a site wide obligation agreement to ensure the infrastructure is provided at the right time; in a viable and fair way is one of most difficult obstacles any delivery team faces (and this is a recurring issue throughout the country).

**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?.**

No response to this question.

## **Question 9**

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

We would welcome clarification on whether there is intended to be any test or thresholds in the NPPF to secure New garden towns/and village status or if these can be identified at the discretion of authorities through local plan-making.

We would expect to see the NPPF strengthened to make it clear the opportunity to deliver garden villages should be fully tested through strategic cross boundary plan joint working rather than the

current reliance on ad hoc CLG/ HCA led programmes. The latter we consider lack transparency of decision making and accountability for how funding and support is allocated.

#### **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?**

This is supported in principle. The proposals are considered helpful as they provide guidance on the interpretation of the paragraph 84 of the NPPF, confirming that a sequential approach is intended to be undertaken as part of examining all other reasonable options which would then lead to identifying or not exceptional circumstances. Good practice supports this approach which would be expected to be undertaken as part of a green belt review and testing of spatial strategy options as part of plan preparation process.

In the WoE, authorities preparing the Joint Spatial Plan are committed to making best use of urban areas for housing delivery including effective use of suitable brownfield sites; the potential offered by land which is currently underused ( including surplus public sector land); and optimising the proposed density of development.

The emerging Joint Spatial Plan aims to minimise development within the Bristol and Bath Green Belt. However, having examined and maximised delivery potential from the above sources, the Joint Spatial Plan process has established that it is not possible to sustainably accommodate all identified growth needs entirely outside the green belt. The emerging strategy is therefore exploring the need to amend some green Belt boundaries to contribute to meeting housing development needs in the area.

However, there would be considerable resource implications and delay in bringing forward allocations, if there is a presumption that “all” villages, settlements and brownfield land outside the greenbelt be fully investigated first, including consulting on options, undertaking sustainability appraisal etc, when local evidence clearly sets out certain locations and sites are removed from facilities and services, public transport and is covered by high level policy constraints (particularly footnote 9) and are therefore not considered a “reasonable” option, other than they are not in the Green Belt.

**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?**

Where Green Belt land is lost, the principle of compensatory improvements to the environmental quality and accessibility of remaining areas of Green Belt is supported, where possible. However, the White Paper sets out that that some areas of Green Belt are “...not the green fields we often picture, and public access can be limited, depending on ownership and rights of way”. A reasonable approach therefore would be for compensatory improvements to be proportionate to the quality of the Green Belt land lost. In addition any improvements through compensation should, where possible, be well related to locations and communities affected by loss, or if not, demonstrably in locations where the benefit significantly outweighs the loss.

**c) appropriate facilities for existing cemeteries should not to be regarded as ‘inappropriate development’ in the Green Belt?**

No response to this question.

**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?**

No response to this question.

**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?**

This proposal is not supported. Whilst the neighbourhood plan must be prepared in general conformity in accordance with the Strategic policies of the relevant Development Plan and consistent with the NPPF defining a Green Belt Boundary would raise significant strategic issues for a NP and might be better handled by the LPA.

Concern is raised that it would lead to considerable resource input for both local communities and local authority, to determine an issue which has a relatively limited scope for meaningful change, if it is to be soundly implemented. E.g. defining the boundary of green belt would need to meet requirements of NPPF and not be so far adjusted to undermine the principle of alterations in a higher level document. Local communities would have multiple opportunities to comment and be involved in defining the boundary of green belt, through consultation as part of a Local Plan, were it not done through a Neighbourhood Plan(s).

**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?**

Support in principle. The opportunity for additional development of land around transport hubs and other previously used land should be fully considered is welcomed. However, where this would intrude into Green Belt and impact on openness, the impact of this need to be carefully weighed as part of any overall planning balancing exercise.

## **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?**

No response to this question.

## **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?;**

No response to this question.

**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?;**

No response to this question. **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?;**

No response to this question.

**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**

No response to this question.

**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?**

No response to this question.

### **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?;**

The implication that density should be influenced by a 5yr land position is not supported. Whilst it is agreed that efficient use of land should always be promoted, quality and amenity should not be forgone to meet what is possibly a short-term issue (5yr land position.) The implication as drafted is that where a 5yr land supply position has been lost developers will be incentivised to build at higher densities than otherwise would do so. Delivering quality should be the priority.

We would welcome instead the inclusion of making efficient use of land and appropriate densities as best practice to encourage the development industry to come forward with proposals that respond to the need to maximise efficient use of land. This approach fits with our current approach to the JSP where different typologies have been considered and appropriate densities for different types of strategic development locations proposed.

**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?;**

This approach is supported. This approach fits with our current approach to the JSP which seeks first to maximise development within existing urban areas.

It is noted that there are still challenges in bringing forward sites of this nature. Typically sites in urban areas are more constrained and there is more pressure on infrastructure and other services which impacts viability.

**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?;**

This approach fits with our current approach to the JSP which seeks first to ensure density and form of development is supported by necessary infra and provision of other services. Flexibility on density to reflect local circumstances is welcomed in the context of making efficient use of space.

**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?;**

No response to this question.

#### **Question 14**

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

No response to this question.

#### **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)?**

Deliverability is a complex issue and some of the issues to overcome are not wholly within the gift of planning policy. The NPPF requires that plans and sites are viable and deliverable, providing competitive returns to willing landowners etc. The effectiveness of any 'tools' therefore need to be tested thoroughly, through engagement, market/development industry, feasibility/viability and ability to deliver any necessary infrastructure to support development.

#### **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?;**

Whilst there is an opportunity for local authorities to agree their housing land supply for one year we note there are issues in ensuring this approach can be achieved. The aim the government is seeking to achieve is understood. However, in practice this option will only apply to those LPAs who feel confident that they can demonstrate a 5 year housing land supply. Moreover, the benefits gained by fixing the land supply for 1 year may be out weighted by the costs and time it takes to confirm this.

A key issue will be the difficulty in obtaining a consensus view amongst the development industry who often have competing priorities and it is not therefore in the development industry's interest to have an agreed position annually. Should this be achieved it is felt that a 10% buffer is relatively high and for some local authorities identifying additional locations to meet this figure may provide more uncertainty for communities', and uncertainty to investors as the planned approach in terms of delivery and phasing becomes less clear.

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

The approach would be supported as it would be the PINS who would have to regard the authority's assessment of its housing supply as a material consideration of significant weight in any planning appeal. It would be helpful to have PINS independently consider and agree the assessment given the concerns raised regarding achieving consensus with the development industry. However, capacity for both the Authorities and PINS to undertake annual assessment and to have these formally agreed seems challenging and may become a disproportionate exercise relative to the outcome. As an alternative the option to fix land supply for up to 3 years may be more attractive, but again this needs to be balanced with the degree of challenge an LPA might expect to receive. Nonetheless, all parties working to an agreed position may greatly reduce time spent scrutinising the land supply position of an LPA at each individual planning application/appeal.

**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 costs of PINS examining whether the approach is robust versus an assessment itself of supply is acknowledged as a concern. The benefit of PINS undertaking an assessment is the independent neutral position and expertise. Should PINS assess the robustness of the approach only then clear guidance/criteria/expectations on what makes a robust assessment would be required instead to avoid situations where one set of 'experts' is pitching against another. It is very likely the development industry/ other interested parties would want to strongly challenge individual site assumptions as part of any assessment of the overall process pursued by the LPA. This could significantly extend the time and expense to LPAs in engaging in this process, thereby negating any advantage gained in fixing.

**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?;**

No response to this question.

**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?**

No response to this question.

**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?**

No response to this question.

#### **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.**

No response to this question.

#### **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?**

It is not within the gift of Authorities to deliver digital infrastructure and therefore it is unclear whether it would be appropriate to include how this would be delivered in a local plan. Local Plan policy is not always adaptable to changes in technology. The focus of current local plan policy is on seeking suitable provision of high speed broadband.

It is not reasonable, appropriate, or in the spirit of other suggested changes to Local Plan, to expect a planning policy to set out how infrastructure should be accessible from a range of providers. We would suggest that this requires central government policy direction to achieve/support this.

#### **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 West of England welcomes that the recommendations of the National Infrastructure Commission will be set out clearly in National Policy. The expectation for authorities to identify

how infrastructure improvements might unlock additional land is a key principle of the joint investment planning with the HCA and other delivery agencies, and the broad approach set out in the JSP. We would welcome opportunity to discuss this further with Government.

## **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?**

Yes this proposal is welcomed. It should be noted however, that in order for authorities to plan effectively information on the anticipated finish date and any dependencies –infrastructure etc that would impact on timescales for delivery should be provided.

**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?**

This set of proposals will help to work on trajectories for local and joint plans and will be useful in obtaining monitoring information (potentially reducing time and costs) if it is mandatory on developers and is done in a timely way.

In terms of understanding reasons for non –delivery and the issue of build out rates not matching those (often optimistic) trajectories when planning applications are agreed, this proposal does not go far enough. In the monitoring returns on build out rates, reasons why it differs from original submitted trajectory should be set out to assist local planning authorities in understanding the key delivery issues to be addressed.

**c) the basic information (above) should be published as part of Authority Monitoring Reports?**

Yes provided that this has additional information on why the build out rates may differ.

**d) that large housebuilders should be required to provide aggregate information on build out rates?**

This would be helpful to have an overall picture on performance but does not provide much understanding at a local level on issues and could be taken out of context ie. There may be reasons for delays. Further clarification on what will happen if large housebuilders have failed to deliver against their targets is required.

## **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?**

No response

## **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.**

No response to this question.

#### **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?**

No response to this question.

#### **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.**

Welcome this proposal as an incentive to start on site but note that it will not address the issue of build out rates and finish dates. Could consideration be given to additional incentives for meeting planned delivery dates or accelerating delivery? We note the proposal for serving a completion notice but in practice this will have limited effect.

#### **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?**

No response to this question.

#### **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?**

No response to this question.

#### **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?**

The provision of introducing a housing delivery test to identify whether the number of homes being built across a district is below target and to provide a mechanism for establishing the

reasons why and then to 'trigger' the corresponding policy response, is accepted in principle. However, the approach as set out in the HWP appears overly complex and bureaucratic.

There are concerns that this is an additional requirement placed on Local Authorities alongside demonstrating a five year land supply. This places the responsibility for delivery on Local Authorities when it is not wholly within the gift of an authority to close the gap between planned numbers and those that are implemented.

The baseline for assessing housing delivery should be the local authority's annual housing requirement where set out in an up to date local plan. This should be the figure set out in the adopted local plan and should take account of any phased approach to housing delivery as confirmed by that local plan. Given how frequently developers challenge local plan figures, citing new and more up to date evidence, the council supports the position of the Government as set out in the Minister's letter of 19th December 2014 with regard to the weight to be attached to the housing requirement in an adopted local plan and that other information should not automatically be seen as a proxy for a final housing requirement in Local Plans and that such information does not immediately or in itself invalidate housing numbers in existing Local Plans. b

**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?**

Where circumstances as set out above do not apply and the local plan is considered out of date, published household projections can provide a starting point. However, they are projections only and do not in themselves represent a fully derived housing requirement figure. As a point of principle simply using the Household Projections puts too much emphasis on applying top down target driven methods for establishing the housing requirement and fails to fully balance and take account of any other relevant factors as required by the NPPF. To do so would be contrary to the Government policy and the NPPF which seeks to balance economic, social and environmental factors simultaneously, rather than apply any one in isolation, in order to deliver the Government's objectives for sustainable development as set out at paragraphs 6 and 8 of the NPPF. Moreover, projections can have a range of built in inconsistencies given they are based on population estimates for defined periods of time. This gives good reason to question their reliability and that they provide the best evidence on which to base the housing supply position

**c) Net annual housing additions should be used to measure housing delivery?**

Yes. Support this measure.

**d) Delivery will be assessed over a rolling three year period, starting with 2014/15 – 2016/17?**

This proposal is not supported. Local authorities already monitor and publish their housing delivery data through their AMRs. This information is available to all parties to securitise and review. Furthermore, Local authorities' track record of housing delivery is already recognised as a material consideration of some weight in planning appeals. Introducing a rolling 3 year review

period appears to conflate with the current 5 year housing land supply calculation and the accepted basis by which housing delivery is assessed.

Moreover, a 3 year review period, despite being rolling, can only effectively look at short term factors. Three years may not be long enough period to even out any volatile market fluctuations and to take account of site delivery and phasing. This considerably weakens its value.

Should the Government be minded to introduce this policy change, there will need to be a recognised transition period where there is a new local plan which has substantially higher figures than a previous one. As by default this will mean the previous rolling 3 year supply will show an under delivery and authorities planning for growth will be penalised.

## **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?;**

The approach as set out in the HWP appears overly complex. The housing delivery test spans a wide range of thresholds. Moreover, it effectively adds another test to the 5 year HLS calculation and it is unclear how these two tests would interact with each other.

Much time and resources are currently taken up at planning appeals and examinations considering the numbers to be used and method of calculating housing land supply. The introduction of the Delivery Test as proposed in the HWP would appear to do little to reduce or simplify this. In all probability it will actually increase the likelihood of further extending the dispute and arguments over how the numbers should be calculated and applied, especially as it now appears we might have 2 routes to para 14 being invoked through both a three year and a 5 year test. This will result in added complexity.

If the test were introduced publishing an action plan would be a positive step forward to help to identify issues to address. However, Local Authorities should be supported with further powers and resources to ensure delivery following an analysis of the causes of under delivery.

National guidance will need to provide clear guidance on the preparation of the action plan including guidance on whether the action plan is required to be prepared annually if delivery continues to fall below a certain level.

**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%?;**

Noted that Govt intention is to phase the introduction of the housing delivery test to give Local Authorities time to address under delivery. But this is not a sufficient enough transition period to be able to address issues if it is to be implemented from November 2017. Where there is a new local plan which has substantially higher figures than a previous one this will mean the previous rolling 3 year supply will show an under delivery and authorities planning for growth will be penalised.

A 20% buffer is disproportionate and would have significant impact on communities with the need to potentially identify additional locations for development. Where rates have been depressed by market conditions, identifying further land will not necessarily deliver homes at a faster rate.

**c) From November 2018, application of the presumption in favour of sustainable development where delivery falls below 25%?;**

No response to this question

**d) From November 2019, application of the presumption in favour of sustainable development where delivery falls below 45%?; and**

No response to this question

**e) From November 2020, application of the presumption in favour of sustainable development where delivery falls below 65%?**

No response to this question

**Question 30**

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

PAS have provided helpful tailored support but funding has been significantly reduced. We would welcome further support to PAS.

There needs to be recognition that the scale of the challenge cannot be met within the existing planning system alone, a suite of measures will be required in order to achieve a significant increase in housing delivery.

Public interventions will be required

- in the West of England some of these are being developed as part of the devolution deal and could include:

- Housing Infrastructure Fund – to unlock and/or accelerate the delivery of affordable homes, focused on key developments that require specific interventions to make them deliverable
- Affordability definition and policy expectations - the definition of what is affordable needs to reflect the income of those that live in an area.
- Joint Assets Board
- Exploring the options for joint working to achieve economies of scale
- Potential for modular construction,
- Exploring the possibility of a development land charge model.
- Powers for LPAs to acquire land at lower land values
- Explore options to increase direct Council delivery of new homes (HRA and Local Housing Company):

**Question 31a) do you agree with our proposals to amend national policy to revise the definition of affordable housing as set out in Box 4?**

Suggested response: Yes in principle this is supported as it brings welcome clarity. However, if the definition of affordable housing is widened, the number in need of affordable housing will increase.

The proposal has the potential to increase the opportunities for households who would not be deemed eligible for AH (as currently defined) but are unable to access the housing market. It is noted that Local policy would need to differentiate between those in housing need (i.e. unable to afford open market housing without benefits support) and those who meet wider criteria in relation to the additional home ownership products, supported by SHMA evidence.

The specific proposed definition of starter homes, i.e. that they *'should reflect the meaning set out in statute at the time of plan-preparation or decision-taking'* introduces some uncertainty.

The proposal to introduce a 15 year repayment period for starter homes is also welcomed, however there is a lack of detail, for example:

- para 4.15 states *'some or all of the discount is repaid'* - will this be determined locally?
- it is not clear who would have responsibility for ensuring that the discount is clawed back if property sold within the 15 year period – LAs?
- Who is the clawback paid to and how is the subsidy recycled?
- What about resales – are restrictions removed?

The proposed definition of discounted market sales housing is supported, assuming that the discount genuinely reflects local incomes and house prices (as per the definition). It can be difficult to get a mortgage for this product, although the number of lenders is increasing. There needs to be binding arrangements to secure the discount on resale.

**31b) do you agree with our proposal to introduce an income cap for starter homes?**

We welcome in principle an income cap for starter homes, however the cap is set too high at £80,000 and does not reflect local incomes (for example the median income in SG is £29,752) or cost of market rents. Paras 4.16 and A.124 state that the Government wants LAs to deliver starter homes as part of a mixed package of affordable housing of all tenures *'that can respond to local needs and local markets'*. The cap should be locally set at a level that reflects and is consistent with the affordability threshold used in the SHMA (35% of gross income).

**31c) do you agree with our proposal to incorporate a definition of affordable private rent housing?**

In principle the proposal does make sense, should be set out in the revised NPPF and should be limited to Build to Rent schemes only (see Qs 8-12 of the Build to Rent consultation).

LA nominations will need to be secured and delivered via Choice-based Lettings systems. There are some potential concerns about tenancy management issues from RP partners.

However, we do not consider the new name of “affordable private rented homes” to be appropriate as it can be confused with “affordable rent” and suggests the name that has been adopted by the PRS new build industry of “discounted market rent”.

PRS providers have expressed their willingness to include ‘discounted market rent’ as the affordable housing contribution. They consider that this definition accurately describes how the product allows flexibility in the rents (including service charge) being set at different levels from 50% to 80% of open market rent up to the ceiling set by Local Housing Allowance limits for different property types.

**31d) do you agree with our proposal to allow for a transitional period that aligns with other proposals in the White Paper (April 2018)?**

Yes, agree with the proposal to allow for a transitional period that aligns with other proposals in the White Paper (April 2018), although need to assess whether the timescale is adequate.

**Q32a) do you agree that national planning policy should expect LPAs to seek a minimum of 10% of all homes on individual sites for affordable home ownership products?**

The proposal to revise the H&P Act requirement to deliver 20% starter homes and provide a locally-focused 10% low-cost-home-ownership offer instead, as part of a range of tenures including subsidised rent, is a better outcome than the previous proposals.

However, as a matter of principle any percentage requirement for affordable home ownership products should be set by the local planning authority.

The NPPF expects local planning authorities to have a clear understanding of the housing needs of their area through the preparation of a Strategic Housing Market assessment (SHMA). This provides the evidence for Local Plans to meet the full objectively assessed needs for affordable housing within the housing market area through the setting of appropriate policies.

To meet NPPF expectations local planning authorities will need to retain discretion for setting the proportion of starter homes, discounted market sale and other forms of low cost home ownership products within their area. This proportion will have to be based on local housing need (and demand), as evidenced through the authority’s SHMA, and, local viability testing.

A national minimum requirement for affordable home ownership products may conflict with this local evidence and risks undermining existing national policy. In addition, as the need for such products (as evidenced through SHMA’s) and the viability of developments that provide them will vary across the country the proportion of starter homes required through development should not be set at the national level.

The proposed national approach could reduce our ability to secure the types of affordable housing required to meet the areas identified housing needs, in particular social rent and other affordable homes to rent. Scheme viability is a key issue for many residential developments coming forward across the West of England. High land values, particularly in central Bristol and Bath areas are a significant factor in viability considerations reducing the capacity of development to deliver appropriate planning obligations. This has been reflected in the lower level of affordable housing delivered through private development in recent years. In the last 3 years under 40% of housing schemes with planning permission in Bristol have achieved policy compliance (i.e. have met the affordable housing policy targets).

The introduction of a 10% requirement for affordable home ownership products will further reduce the capacity of schemes to meet existing affordable housing policy requirements. Seeking social rent affordable housing and other affordable homes for rent on top of the proposed 10% requirement will threaten scheme viability in most cases.

As drafted, the implication is that where the full AH requirement is unviable, the 10% LCHO element would take priority over social and affordable rented products. The majority of need is for rented AH and any reduction will adversely impact on use of temporary accommodation and LA homelessness budgets. The impact would be relatively small if 100% of the AH requirement is viable, however where AH is unviable, the impact is greater, and this would affect the majority of brownfield sites. It is suggested that the 10% LCHO requirement is reduced pro rata on any unviable schemes.

**Q32b) do you agree that this policy should apply to developments of over 10 units or 0.5 ha?**

Agree that the policy should only apply to developments of over 10 units in non-rural areas, however the size threshold of 0.5ha is too large. A site of 0.5 ha equates to a density of 20 units per ha which would not be an efficient use of land. There should be a lower threshold in rural areas (5 units/0.2 ha).

**Q33) should any particular types of residential development be excluded from this policy?**

Yes, we agree that the following types of residential development should be excluded from the requirement to provide 10% LCHO products:

- build to rent schemes (purpose-built for market and affordable rent)
- supported housing
- custom-build - there are practical difficulties in securing on-site provision of AH – propose an off-site financial contribution where scheme viability allows.
- rural exception sites - should be a matter of local discretion to meet evidenced need for specific tenure types

**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?**

Would welcome further clarification. Without detail on what the proposed amendments are it is difficult to understand whether these changes will provide helpful clarity or not.

#### **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?**

Clarification is sought on the process of appropriate assessment for temperature change as a consequence of climate change

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

Would welcome further clarification. Without detail on what the proposed amendments are it is difficult to understand whether these changes will provide helpful clarity or not.

#### **Question 36**

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

Would welcome further clarification. Without detail on what the proposed amendments are it is difficult to understand whether these changes will provide helpful clarity or not

#### **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?**

No response to this question

#### **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 response to this question