New Consultation on Levelling Up Bill and National Planning Policy Framework (NPPF)

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Housing Secretary Michael Gove [1] has announced a new consultation from the Department for Levelling Up, Housing and Communities to update the national planning policy in England. The consultation is on policy changes to support the legislative changes proposed in the Levelling-up and Regeneration Bill. The Bill has completed its passage through the House of Commons and will have its second reading in the House of Lords on 17 January. The Government has signalled that the proposals only propose an update to the NPPF but there will be a full revision in spring 2023.

The consultation is entitled *Levelling-up and Regeneration Bill: reforms to national planning policy and you can see the detailed text of the planned changes* here. The main strands of this wide-ranging consultation include:

Reforming the 5-year housing land supply rules. Changes proposed from spring 2023 are to replace supply rules in areas with up-to-date plans and where communities have made neighbourhood plans.

Changes to the NPPF. The consultation includes draft revisions to the National Planning Policy Framework (NPPF) that can be seen by clicking this link.

Building Beautiful. Forging a stronger link between good design and beauty by making additions to the NPPF that underscore the importance of beautiful development.

National Development Management Policies (NDMPs). The Government is seeking views on the principles of these centrally imposed planning policies. NDMPs will have the same or greater importance than current local development plan policies.

Plan Making. Setting out transitional provisions for plans under the current law and deadlines for the completion of new development plans.

Among the key takeaways are:

For the Housing Delivery Test remove the requirement for local authorities with an up-to-date plan,

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(where the housing requirement as set out in strategic policies is less than 5 years old), to demonstrate continually a deliverable 5-year housing land supply. Removing the need for local authorities to include a buffer of 5%, 10% or 20% on top of their 5-year housing land supply in plan-making or when making decisions.[2] Additionally, considerations around uncharacteristic densities, the Green Belt and past over-delivery will enable local planning authorities not to plan to meet their objective housing needs.

To deal with the perceived slow build out rates the proposal is that delivery can be a material consideration in planning applications resulting in applications proposing a slow delivery rate may be refused.

The proposals for key principles for NDMPs are rather vague. The consultation suggests their aim would be to deal with "existing decision-making policies" in the NPPF, "selective new additions" to reflect new national priorities, for example, net zero and to close policy 'gaps'.

The intended scope of NDMPs remains broad and imprecise. The paper explains NDMPs would cover "only matters that have a direct bearing on the determination of planning applications"; that they are "limited to key, nationally important issues"; and solely address planning issues.

If the Bill becomes law then NDMPs would be given the same weight in certain planning decisions as policies in local plans, neighbourhood plans and other statutory plans.

To manage changes to new plan-making in the Bill, the Department proposes transitional provisions to allow the submission of local plans, neighbourhood plans, minerals and waste plans, and spatial development strategies for independent examination under the existing legal framework until 30 June 2025 provided that they are adopted by 31 December 2026.

The consultation is wide-ranging with variable detail on a forthcoming host of planning policy changes. There's not enough space here to set out all the proposals, some of which are welcome and others, such as a 'bad character test', are likely to be unworkable. The consultation signals the breadth and depth of the cumulative changes to the planning system that will be made by the Bill and policy changes in the course of 2023 and beyond. It remains an open question whether releasing local planning authorities from the most stringent requirement to demonstrate a year on year 5-year housing supply will have the intended result of an uplift in permissions for housing in areas of the greatest objective need. Importantly, the Department has indicated that these proposals are a starting point for wider policy changes to support the Bill when it becomes law. For example, outline proposals on the Bill's new Infrastructure Levy are still awaited.

Deadline for response

Consultation responses may be made until 11.45 pm on Thursday 2 March by responding on the Citizen Space portal or emailing PlanningPolicyConsultation@levellingup.gov.uk.

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[1] Secretary of State for Levelling Up, Housing and Communities.

[2] At the present time, a 5% buffer is expected in all cases as a minimum, a 10% buffer is applied when an Annual Position Statement or recently adopted plan meets specific criteria in the NPPF) and the 20% buffer is applied as a consequence of the Housing Delivery Test, where a local planning authority delivers less than 85% of the homes it requires.

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