



Department for
Communities and
Local Government

Planning for the right homes in the right places: consultation proposals



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Department for Communities and Local Government
Fry Building
2 Marsham Street
London
SW1P 4DF
Telephone: 030 3444 0000

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Scope of the consultation

Topic of this consultation:	This consultation seeks views on a number of changes to planning policy and legislation. Some of these changes were foreshadowed in the housing White Paper available at: https://www.gov.uk/government/publications/fixing-our-broken-housing-market
Scope of this consultation:	The Department for Communities and Local Government is consulting on new planning proposals which will involve amendments to the National Planning Policy Framework and regulations.
Geographical scope:	These proposals relate to England only.
Impact Assessment:	N/A

Basic Information

To:	This consultation is open to everyone. We are keen to hear from a wide range of interested parties from across the public and private sectors, as well as from the general public.
Body/bodies responsible for the consultation:	Department for Communities and Local Government
Duration:	This consultation will begin on Thursday 14 September and will run for 8 weeks until Thursday 9 November 2017. All responses should be received by no later than 23.45 on 9 November.
Enquiries:	For any enquiries about the consultation please contact: planningpolicyconsultation@communities.gsi.gov.uk
How to respond:	<p>Consultation responses should be submitted by online survey: https://www.surveymonkey.co.uk/r/planningforhomes</p> <p>Consultations on planning policy receive a high level of interest across many sectors. Use of the online survey greatly assists us in our analysis of the responses, enabling more efficient and effective consideration of the issues raised for each question.</p> <p>We have listened to concerns raised about the use of an online survey in the past and have made a number of adjustments to the survey ahead of this consultation. The online survey will allow respondents to: select the sections they wish to answer, without having to go through the whole survey; save and return to the survey later; and submit additional information or evidence to support your response to this consultation.</p>

Further advice on how to use these new features is available on the home page of the online survey.

We strongly encourage all respondents to respond via the online survey, particularly organisations with access to online facilities such as local authorities, representative bodies and businesses. However, should you be unable to respond online we ask that you complete the pro forma found at the end of this document . Additional information or evidence can be provided in addition to your completed pro forma.

In these instances you can email your pro forma to:
planningpolicyconsultation@communities.gsi.gov.uk

Or send to:

Planning Policy Consultation Team
Department for Communities and Local Government
3rd floor, South East
Fry Building
2 Marsham Street
LONDON
SW1P 4DF

Foreword

As anyone who has tried to buy or rent a home recently would probably tell you, the housing market in this country is dysfunctional. The root cause is very simple: for too long, we haven't built enough homes. The damaging financial crisis ten years ago compounded this problem.

Thanks in part to action we've taken over the past seven years, the situation is improving. Last year saw more planning permissions granted than ever before, while the number of new building starts is at its highest level in nearly a decade. But there's much more to do.

Our housing White Paper, published earlier this year, set out how we're going to get England building. We are delivering our 2015 commitment of a million new homes by 2020, and want to supply a further half a million by 2022.

The measures in this consultation will help ensure that local authorities plan for the right homes in the right places. This means creating a system that is clear and transparent so that every community and local area understands the scale of the housing challenge they face. We do not want local authorities wasting time and money on complex, inconsistent and expensive processes. This only creates lengthy bureaucratic arguments, often behind closed doors, and isolates local communities.

The new approach proposed will give local communities greater control so they can make informed decisions about exactly where much-needed new homes should be built. In doing so it will help to tackle the lack of affordability of housing in this country, and support those families who want the security of owning their own home.

The proposals in this consultation provide a more robust starting point for making these important decisions. Without the right starting point we can't make the wider reforms to the housing market that will ensure homes are built faster, by a more diverse housing market, to meet the needs of ordinary households and communities now and in the future.

Nor is this consultation just about the numbers. It's also about how areas can work together where communities' needs cannot be met locally. And it's about putting the right resources into local planning authorities so their plans can be delivered and communities can see the benefit of high quality, well-planned homes.

We recognise that this is not easy. That is why we launched our £2.3 billion Housing Infrastructure Fund earlier this year to ensure essential physical infrastructure, such as schools and roads, is built alongside the new homes we so badly need. We will explore bespoke housing deals with authorities in high demand areas with genuine ambition to build. We will also provide further support to local authority planning departments with a £25 million capacity fund.

This consultation also sets out our ambition to publish a revised National Planning Policy Framework in Spring 2018. This will ensure that we not only plan for the right homes in the right places, but that we turn existing and future planning permissions quickly into homes through reforms such as the Housing Delivery Test.

Nobody likes indiscriminate, unplanned and unwelcome development. But most of us are willing to welcome new homes if they're well-designed, built in the right places, and are planned with the co-operation of the local community. To win the support of local residents, we have to build homes people want to live alongside as well as in.

This consultation is the first step in making sure all that happens – and making sure our children and grandchildren can access the safe, secure, affordable housing they need and deserve

Rt Hon Sajid Javid MP

Secretary of State for Communities and Local Government

Introduction

1. The White Paper, *Fixing our Broken Housing Market*¹ (“the housing White Paper”), set out proposals to tackle the housing challenge that our country faces, as a key part of building a stronger, fairer Britain where people who work hard are able to get on in life. It argued that we need to build more houses of the type people want to live in, in the places they want to live. This requires a comprehensive approach that tackles failure at every point in the system.
2. The housing White Paper set out four main areas where action is needed:
 - a) planning for the right homes in the right places - to make sure that enough land is released, that the best possible use is made of that land, and that local communities have more control over where development goes and what it looks like;
 - b) building homes faster – where communities have planned for new homes, ensuring those plans are delivered to the timescales expected;
 - c) diversifying the market – to address the lack of innovation and competition in the home-building market; and
 - d) helping people now – tackling the impacts of the housing shortage on ordinary households and communities.
3. The housing White Paper contained a number of proposals to reform planning to achieve these objectives. It reinforced the central role of local and neighbourhood plans in the planning system, so that local planning authorities and local communities retain control of where development should and should not go. It also reiterated strong protections for the Green Belt and other environmental designations, and set out proposals to make sure that we build high quality homes in which people want to live.
4. The housing White Paper also stated that further consultation on specific issues would follow², and this paper carries forward that commitment. It seeks views on changes to national policy to help local planning authorities and communities plan for and deliver the homes they need, including:
 - a) our proposed approach to a standard method for calculating local housing need, including transitional arrangements (paragraphs 1.13, 1.14, A.21 and A.23 of the White Paper);

¹ DCLG, February 2017, <https://www.gov.uk/government/publications/fixing-our-broken-housing-market>

² Other proposals in the housing White Paper that have implications for the National Planning Policy Framework will be reflected in the forthcoming revision of the Framework referred to in paragraph 6.

- b) improving how authorities work together in planning to meet housing and other requirements across boundaries, through the preparation of a statement of common ground (paragraphs 1.9 and A.13);
 - c) how the new approach to calculating housing need can help authorities plan for the needs of particular groups and support neighbourhood planning (paragraphs A.24 and A.65);
 - d) proposals for improving the use of section 106 agreements, by making the use of viability assessments simpler, quicker and more transparent (paragraph 2.30); and
 - e) seeking further views on how we can build out homes more quickly.
5. This consultation also seeks views on the proposal in the housing White Paper that local planning authorities delivering the homes their communities need might be eligible for a further 20 per cent increase in fees for planning applications, over and above the 20 per cent increase already confirmed³. If taken forward, this would be delivered through changes to regulations.
6. Subject to the outcome of this consultation, and the responses received to the housing White Paper, the Government intends to publish a draft revised National Planning Policy Framework early in 2018. We intend to allow a short period of time for further consultation on the text of the Framework to make sure the wording is clear, consistent and well-understood. Our ambition is to publish a revised, updated Framework in Spring 2018.
7. In taking forward the proposed changes to the Framework, some amendments will also be required to planning guidance. We will use the responses to both consultations to help shape changes to the guidance, which we intend to update alongside the revised Framework.

³ Paragraph 2.15, DCLG, February 2017

Proposed approach to calculating the local housing need

Introduction

8. Statutory plans allow local planning authorities, elected Mayors⁴ and communities to plan where new homes will be built, plan for the infrastructure needed, and to have more control over the look and feel of new development. They also identify ways of improving the local environment and achieving net gains for the environment.
9. The National Planning Policy Framework is clear that, to enable effective planning of new homes, local planning authorities should start the plan-making process with a clear understanding of the number of new homes that they need in their area. While this is an essential first step, it is not the only stage in the process. Local planning authorities then need to determine whether there are any environmental designations or other physical or policy constraints which prevent them from meeting this housing need. These include, but are not limited to, Ancient Woodland, the Green Belt, Areas of Outstanding Natural Beauty and Sites of Special Scientific Interest. They also need to engage with other authorities – through the duty to co-operate – to determine how any need that cannot be accommodated will be redistributed over a wider area. This means that the level of housing set out in a plan may be lower or higher than the local housing need.
10. The housing White Paper argued that both these processes could be improved, through the introduction of a standard method for assessing housing need and a statement of common ground to improve joint working.

Background

11. The housing White Paper, drawing on the work of the Local Plans Expert Group⁵, argued that the existing approach to assessing housing need is too complex. At present, the National Planning Policy Framework and planning guidance ask each local planning authority to define a Housing Market Area, and to identify the 'objectively assessed need' for market and affordable housing within this. Planning guidance sets out a recommended method for doing so, using the latest National

⁴ References to elected Mayors refer to Mayors of combined authorities (and the Mayor of London) who have plan-making powers.

⁵ Local Plans Expert Group (2016) *Local Plans: report to the Communities Secretary and to the Minister of Housing and Planning* <https://www.gov.uk/government/publications/local-plans-expert-group-report-to-the-secretary-of-state>

Statistics for projected household formation as a starting point. This is then adjusted to take account of a range of issues, including employment growth and market signals. The current process leaves substantial room for interpretation.

12. The lack of a simple, standard approach to assessing local housing need has led to a costly and time-consuming process which lacks transparency:
 - many local planning authorities spend significant sums of taxpayers' money employing consultants to come up with a housing need figure, often using different and inconsistent methods. It can cost local planning authorities around £50,000 to prepare a strategic housing market assessment, which could equate to an overall cost to the sector of over £3 million per year;
 - local planning authorities, developers and local communities often engage in disputes on the method used, which delays the process (by around six months) and adds cost; and
 - few methods take significant account of the affordability of housing in their area.
13. The Government argued in the housing White Paper that a standard approach to assessing local housing need would be simpler, quicker, and more transparent. This would speed up the time taken to prepare Local Plans and give local communities greater control of development in their area. We consider that a standard method should be based on three key principles:
 - a) Simple – there should be an easy and transparent process for local people and other interests to understand;
 - b) Based on publicly available data – which might include national data such as that from the Office for National Statistics, or robust local data;
 - c) Realistic – to reflect the actual need for homes in each area, taking into account the affordability of homes locally. High house prices indicate a relative imbalance between the supply and demand for new homes, and makes housing less affordable. The affordability of new homes is the best evidence that supply is not keeping up with demand.
14. In addition, we consider that any approach must allow an understanding of the minimum number of homes that are needed across England as a whole, while also reflecting the effect of our Industrial Strategy⁶ as we seek to promote prosperity in every part of the country.

⁶ <https://www.gov.uk/government/policies/industrial-strategy>,

The Government's proposed approach

15. Our proposed approach to a standard method consists of three components. The starting point should continue to be a **demographic baseline**, which is then modified to account for **market signals** (the price of homes). However, we recognise that it is important to ensure that the proposed housing need is as deliverable as possible, so we are **proposing a cap to limit any increase** an authority may face when they review their plan. Further details are set out in paragraphs 16-25 below.

Step 1 Setting the baseline

16. We consider that the starting point should continue to be projections of future household growth in each area, but calculated initially for the area of the local authority. This will ensure that the process begins with a clear assessment of housing growth for every area. The Office for National Statistics' projections for numbers of households in each local authority⁷ are the most robust estimates of future growth.

17. We therefore propose that **projections of household growth should be the demographic baseline for every local authority area**⁸. The most recent official projections should be used, with the household growth calculated for the period over which the plan is being made. **We propose that the demographic baseline should be the annual average household growth over a 10 year period.** Given the Government's expectation that plans are reviewed every five years, using average household growth over this period will ensure effective planning over the preparation and duration of the plan. Household projections should therefore be regarded as the minimum local housing need figure.

Step 2 An adjustment to take account of market signals

18. We consider that household growth on its own is insufficient as an indicator of demand since:

- household formation is constrained to the supply of available properties – new households cannot form if there is nowhere for them to live; and
- people may want to live in an area in which they do not reside currently, for example to be near to work, but be unable to find appropriate accommodation that they can afford.

⁷ DCLG, <https://www.gov.uk/government/statistical-data-sets/live-tables-on-household-projections>.

⁸ In some areas the projected household growth will be negative. In these places, the demographic baseline should be taken to be zero.

19. There is a longstanding principle in planning policy that assessing an appropriate level of housing must address the affordability of new homes, which means in practice that projected household growth should be adjusted to take account of market signals. One approach would be to increase household projections where house prices are high. But that would not take account of the fact that incomes may be higher in that area, and so homes may be no less affordable.
20. Therefore, we consider that median affordability ratios, published by the Office for National Statistics at a local authority level, provide the best basis for adjusting household projections. The affordability ratios compare the median house prices (based on all houses sold on the open market in a given year in a local authority) to median earnings (based on full-time earnings for those working in that local authority area). **We propose that as the next step in the standard method, plan makers should use the workplace-based median house price to median earnings ratio from the most recent year for which data is available.**⁹
21. As the housing White Paper noted¹⁰, external commentators suggest that England needs net additions in the region of 225,000 to 275,000 per year. To get a total housing need close to this figure, our modelling proposes that **each 1 per cent increase in the ratio of house prices to earnings above four results in a quarter of a per cent increase in need above projected household growth.** This achieves the overall level of delivery that most external commentators believe we need, while ensuring it is delivered in the places where affordability is worst. The precise formula is as follows:

$$\text{Adjustment factor} = \frac{\text{Local affordability ratio} - 4}{4} \times 0.25$$

22. The overall housing need figure is therefore as follows:

$$\text{Local Housing Need} = (1 + \text{adjustment factor}) \times \text{projected household growth}$$

23. So, for example, an area with a projected household growth of 100 a year would have an annual need of:

- 100 if average house prices were four times local average earnings
- 125 if average houses prices were eight times local average earnings
- 150 if average house prices were twelve times local average earnings.

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<https://www.ons.gov.uk/peoplepopulationandcommunity/housing/datasets/ratioofhousepricetoworkplacebasedearningslowerquartileandmedian>

¹⁰ Page 9, DCLG, February 2017

24. There are a number of possible ways of making an adjustment to take account of market signals. However, our approach is based on the following key principles:

- a) the threshold level of four, above which we seek an upward adjustment in housing need, is appropriate since the maximum amount that can typically be borrowed for a mortgage is four times a person's earnings¹¹. Put another way, if the average worker cannot get a mortgage for the average home in the area without additional help (e.g. from the 'bank of mum and dad'), then there are not enough homes in the area and the local authority needs to plan for more; and
- b) increases in housing delivery above population growth should be inversely proportionate to the affordability of an area, with less affordable areas needing to deliver more homes. There is considerable economic evidence that demonstrates that growth in house prices (and therefore worsening affordability) is inversely related to the level of house building¹².

Step 3 Capping the level of any increase

25. Applying our proposed approach to market adjustment will lead to a significant increase in the potential housing need in some parts of the country. To help ensure the method is deliverable, we propose to place a cap on the increase that applies to particular authorities. **We propose to cap the level of any increase according to the current status of the local plan in each authority as follows:**

- a) for those authorities that have adopted their local plan in the last five years, we propose that their new annual local housing need figure should be capped at 40 per cent above the annual requirement figure currently set out in their local plan; or
- b) for those authorities that do not have an up-to-date local plan (i.e. adopted over five years ago), we propose that the new annual local housing need figure should be capped at 40 per cent above whichever is higher of the projected household growth for their area over the plan period (using Office for National Statistics' household projections), or the annual housing requirement figure currently set out in their local plan.

¹¹ The Council Mortgage Lenders found that in 2015 the average first time buyer loan to income ratio in England was 3.61.

¹² The economic theory behind this is evidenced in the [Barker Review](#) (DCLG, 2004) and [Affordability Still Matters](#) (NHPAU, 2008).

Impact on each Local Authority Area

26. This method would, if applied universally to each local planning authority immediately using current data, lead to a total housing need across the country of just over 266,000 homes, including 72,000 in London.
27. This new method for assessing local housing need will affect individual authorities differently. Alongside this consultation document, we are publishing the housing need for each local planning authority using our method, on the basis of current data (average household growth for 2016 to 2026 and house price to earnings ratios for 2016). It also sets out, indicatively, the extent to which land in each local authority area is covered by Green Belt, National Parks, Areas of Outstanding Natural Beauty and Sites of Special Scientific Interest. This is for illustrative purposes only - the data informing this new method is based on the most up-to-date information available at the time of publishing this consultation document, and will change between now and when local authorities produce plans.
28. For some local planning authorities, a reduction in their local housing need compared to the existing approach can be attributed to our method not making a specific adjustment to take account of anticipated employment growth. However, as we explain in paragraph 46 below, local planning authorities are able to plan for a higher number than set out by our proposed method. This means that, where there is a policy in place to substantially increase economic growth, local planning authorities may wish to plan for a higher level of growth than our formula proposes.
29. We have also published for the first time data on how many homes every local authority in the country is planning for, and, where available, how many homes they believe they need. At the moment, it is not always clear to local communities or developers how many homes their local area is planning for, let alone needs. These figures are often buried deep in technical reports and hidden away on local authority websites. It can take several hours to track down exactly how many homes a local planning authority has decided it needs – and even then it might not be clear. It should not be this difficult, and by collating this information together in a single place, we will make planning more transparent and simpler for people to understand. **We would welcome practical suggestions for ensuring this information can be made yet more transparent.**

Joint working

30. We recognise that many individual local authorities are already working together when identifying their housing need, and encourage more authorities to do so. We would expect that plans that are being produced jointly, or strategic plans prepared by the Mayor of London and other elected Mayors (for combined authorities where they have

the function of preparing a spatial development strategy for the area), will use the proposed approach to produce a single assessment of the housing need for the area as a whole.

31. In such cases **we propose that the housing need for the defined area should be the sum of the local housing need for each local planning authority.** It will be for the relevant planning authorities or elected Mayor to distribute this total housing need figure across the plan area. The Housing Infrastructure Fund is designed to allow for joint bids and can support land constrained high demand areas to work collaboratively with neighbouring authorities with fewer constraints that want to accommodate greater housing numbers.
32. We considered the approach of applying the average affordability ratio for each constituent local authority's projected household growth, prior to applying a cap to the figure for each authority based on its plan status as proposed above. However, we discounted this approach since there was no consistently available data on average affordability ratios at the level of all combined authorities.

London

33. London's local housing market presents unique and wide-ranging affordability challenges. The Mayor of London has overall responsibility for housing in London. This includes preparing the Greater London Spatial Development Strategy, which sets a London-wide housing target that is broken down to a minimum housing target for individual Boroughs. The approach to setting local housing needs in London is consistent with the method proposed for the rest of England.

Subsequent changes to local housing need

34. For the second and subsequent plan reviews we propose that the cap for authorities should remain at 40 per cent above the number of homes they are planning for in the extant local plan at the time of review.

Question 1:

a) do you agree with the proposed standard approach to assessing local housing need? If not, what alternative approach or other factors should be considered?

b) how can information on local housing need be made more transparent?

Implementing the new approach

35. The National Planning Policy Framework sets out that plans should be reviewed regularly¹³ and we intend to make it clear in the Framework that they should be reviewed every five years. We expect local planning authorities to identify their local housing need at the outset of the plan preparation stage, which they can then use as part of initial evidence gathering and continued work on the evidence base.
36. Local planning authorities, when calculating their local housing need, should always use the most up-to-date data available. The housing need figures we have published are based on the 2014 based household projections (published July 2016), and 2016 house price to earnings ratios (published March 2017). The household projections are updated every two years in the summer, and the house price to earnings ratios are published annually in March.
37. This means that the local housing need figure will not remain static throughout the plan preparation process. Under the previous approach we recognise that this led to instances when local planning authorities had to revisit their evidence and, if necessary, carry out further consultation. This only served to delay plan progress and increase costs. We want to streamline the plan-making process and make it easier for plans to be adopted more quickly.
38. To ensure stability and a consistent evidence base to inform plan-making, **we propose that local planning authorities should be able to rely on the evidence used to justify their local housing need for a period of two years from the date on which they submit their plan.** During this period this will mean that the local housing need assessment is not rendered out of date if changes to the household projections or affordability ratios are published while the plan is being examined. Of course, the final housing figure in the local plan or spatial development strategy may differ from the local housing need figure after taking account of issues raised during the examination, constraints and the duty to co-operate.

Question 2: do you agree with the proposal that an assessment of local housing need should be able to be relied upon for a period of two years from the date a plan is submitted?

¹³ National Planning Policy Framework, DCLG, March 2012 - See in particular paragraphs 17 and 157, and the Local Plans section of the planning guidance

Benefits of the new approach

39. The use of different and inconsistent methods has meant that the current arrangements for calculating local housing need are costly and time-consuming. It can cost local planning authorities around £50,000 to prepare a strategic housing market assessment, so this could equate to an overall cost to the sector of over £3 million each year. Furthermore, disputes about the methods used can lead to delays of around six months in the preparation of local plans and add considerable additional cost to local authorities, and prolong the level of uncertainty for local communities.
40. Adopting our proposed approach will offer significant benefits. It will reduce the time it takes to put plans in place, give communities greater control of where much-needed homes should be built, and also save local taxpayers money. Furthermore, it provides a level of certainty and transparency for the public and plan makers and will aid joint working and collaboration by removing disputes where different methods have been used previously. Collectively, across the country it will take years off the plan-making process and generate considerable efficiency savings.
41. To deliver the homes that we need, **we propose to amend national planning policy so that having a robust method for assessing local housing need becomes part of the tests that plans are assessed against**; and to make clear (through guidance) that use of the proposed standard method will be sufficient to satisfy this test.
42. Local plans are already required to be ‘positively prepared’ if they are to be found ‘sound’ (paragraph 182 of the National Planning Policy Framework). We propose to amend this, so that a sound plan should identify development needs using a clear and justified method, as well as meeting objectively assessed development needs insofar as it is reasonable to do so. Together with the proposed change to planning guidance, this would mean that Planning Inspectors would be able to sign off more easily, and with considerably less scrutiny, the local housing need aspect of the plan. This will provide more certainty about an emerging plan’s soundness, as well as helping to speed up the plan examination.

Question 3: do you agree that we should amend national planning policy so that a sound plan should identify local housing need using a clear and justified method?

43. As set out in paragraph 1.18 of the housing White Paper, HM Land Registry intends to register the ownership of all publicly held land in the areas of greatest housing need by 2020, with the rest to follow by 2025. This information can be taken into account alongside other considerations, including land constraints, to assist plan makers in finding sites suitable for housing development. The new approach to assessing local housing need, as set out in this consultation document, and the percentage of land

which is unregistered within the boundaries of a local authority will form the basis of definition of 'areas of greatest housing need' for this purpose. We are publishing the list of areas of greatest housing need alongside this consultation document.

Deviation from the new method

44. Given the significant financial and time-saving benefits, our expectation is that local planning authorities adopt the proposed method when assessing housing need. We consider that the same should apply to elected Mayors with plan-making powers. However, there may be compelling circumstances not to adopt the proposed approach. These will need to be properly justified, and will be subject to examination.
45. Where local planning authorities do not align with local authority boundaries, such as National Parks, the Broads Authority and Urban Development Corporations, available data does not allow local housing needs to be calculated using the standard method set out above. **In these cases we propose that authorities should continue to identify a housing need figure locally, but in doing so have regard to the best available information on anticipated changes in households as well as local income levels.**
46. Plan makers may put forward proposals that lead to a local housing need above that given by our proposed approach. This could be as a result of a strategic infrastructure project, or through increased employment (and hence housing) ambition as a result of a Local Economic Partnership investment strategy, a bespoke housing deal with Government or through delivering the modern Industrial Strategy. We want to make sure that we give proper support to those ambitious authorities who want to deliver more homes. To facilitate this **we propose to amend planning guidance so that where a plan is based on an assessment of local housing need in excess of that which the standard method would provide, Planning Inspectors are advised to work on the assumption that the approach adopted is sound unless there are compelling reasons to indicate otherwise.** We will also look to use the Housing Infrastructure Fund to support local planning authorities to step up their plans for growth, releasing more land for housing and getting homes built at pace and scale
47. There should be very limited grounds for adopting an alternative method which results in a lower need than our proposed approach. The reasons for doing so will be tested rigorously by the Planning Inspector through examination of the plan. We would expect: the Inspector to take the number from our preferred method as a reference point in considering the alternative method; and the plan-making body to make sure that the evidence base is robust and based on realistic assumptions, and that they have clearly set out how they have demonstrated joint working.

Question 4: do you agree with our approach in circumstances when plan makers deviate from the proposed method, including the level of scrutiny we expect from Planning Inspectors?

Implications of a standardised approach for calculating the five year supply of housing and the Housing Delivery Test

48. The housing White Paper states that, as an incentive to get up-to-date plans in place, in the absence of an up-to-date local or strategic plan we propose that after 31 March 2018 the new method for calculating the local housing need would apply as a baseline for assessing five year housing land supply. This would mean that local planning authorities without an up-to-date local plan or spatial development strategy would not be able to factor land constraints into the baseline for establishing their five year land supply. However, when determining individual planning applications, the decision-maker will still need to take account of all policies in the National Planning Policy Framework, including those which restrict development (such as Green Belt and Ancient Woodland). Should the revised Framework be published after this date, subject to the outcome of the consultation we propose to introduce this requirement with immediate effect.
49. The Government also recognises that in specific circumstances, where local planning authorities are collaborating on ambitious proposals for new homes, these plans may take longer to bring forward. **We propose that the Secretary of State would retain some discretion to be able to give additional time before this baseline applies** where there is significant progress made on bringing forward a joint plan for housing in the area.
50. Where authorities have adopted joint plans (or in cases where there is an existing Mayoral plan), we are interested in views on whether national policy should be changed to allow the authorities involved to calculate their five year housing land supply for the area as a whole, based on the overall trajectory for home building in the plan. This approach would need to be agreed across all the authorities and set out in the joint or Mayoral plan. **We are also interested in views on whether this approach could be extended to the operation of the Housing Delivery Test as proposed in the housing White Paper.**
51. Where local planning authorities do not align with local authority boundaries, such as National Parks, the Broads Authority and Urban Development Corporations, and are not able to use the new method for calculating local housing need, we propose to use a locally identified housing need figure. **We are interested in views on whether this should be the need set out in the most recent local plan, or spatial development strategy or the figure set out in an emerging plan.**

Question 5:

a) do you agree that the Secretary of State should have discretion to defer the period for using the baseline for some local planning authorities? If so, how best could this be achieved, what minimum requirements should be in place before the Secretary of State may exercise this discretion, and for how long should such deferral be permitted?

b) do you consider that authorities that have an adopted joint local plan, or which are covered by an adopted spatial development strategy, should be able to assess their five year land supply and/or be measured for the purposes of the Housing Delivery Test, across the area as a whole?

c) do you consider that authorities that are not able to use the new method for calculating local housing need should be able to use an existing or an emerging local plan figure for housing need for the purposes of calculating five year land supply and to be measured for the purposes of the Housing Delivery Test?

Transitional arrangements for the proposed approach

52. We are also proposing transitional arrangements to set a period of time before which plans would be expected to use the standard method for calculating the local housing need. This recognises that a number of plan makers have already made significant steps in preparing their plan, and we want to encourage them to complete their plan, avoiding further delays and so undermining the delivery of new homes.

53. The proposed transitional arrangements for each local authority will depend on the status of their current and emerging plan as well as the extent of the impact of the proposed approach on existing housing need calculations.¹⁴ We propose the following transitional arrangements as set out in Table 1 below.

¹⁴ The local plans referred to are development plan documents prepared in line with the 2004 Act which set the strategic planning policies for a local planning authority's area (namely a 'Local Plan' or 'Core Strategy').

Table 1: Proposed transitional arrangements

Plan stage	Proposed transitional arrangement
No plan, or plan adopted more than five years ago and has not yet reached publication stage	The new standardised method should be used, unless the plan will be submitted for examination on or before 31 March 2018, or before the revised Framework is published (whichever is later).
Plan has been published, but not yet submitted	If the plan will be submitted for examination on or before 31 March 2018 or before the revised Framework is published (whichever is later), continue with the current plan preparation – otherwise, use the new standardised method.
Plan is at examination stage	Progress with the examination using the current approach.
Plan adopted in the last five years	Use the new standardised method when next reviewing or updating the plan.

54. Where plans are more than five years old, if new plans have not been submitted to the Secretary of State on or before 31 March 2018, or before the revised Framework is published (whichever is later), there will be no transitional arrangements. In other words the new standardised method applies immediately. Where local plans were adopted or approved more than five years ago, we expect the majority of local planning authorities in this position to start the process of reviewing the document immediately if they have not done so already. However, we do recognise the scale of the challenge in London or combined authority areas, so we may explore a slightly longer transition period for the Mayors before we expect them to adopt the new approach in their areas as they prepare their spatial development strategy.

55. If a local plan is currently at examination or will be submitted for examination on or before 31 March 2018 or before the revised Framework is published (whichever is later), it should continue to be examined and rely on evidence prepared using the current method. If a plan is withdrawn from examination or found unsound, the local planning authority should prepare a new plan based on the new standardised method.

<p>Question 6: do you agree with the proposed transitional arrangements for introducing the standard approach for calculating local housing need?</p>
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Statement of common ground

Introduction

56. Local planning authorities need to plan together to ensure that infrastructure and public services are planned to meet the needs of the wider area; to ensure that the combined impact on the environment is sustainable; to ensure that housing requirement that simply cannot be met in a particular area is met elsewhere; and where appropriate, to ensure that new settlements and garden villages are planned for properly.
57. However, this is not working effectively. Evidence from recent local plan examinations suggests that failing the duty to co-operate is one of the most regular reasons why plans are not found sound by the Planning Inspectorate. Accordingly, paragraphs 1.9 and A.13 of the housing White Paper sets out a plan for more effective joint working where planning issues go beyond individual authorities through a statement of common ground, setting out how they intend to work together to meet housing needs that cut across authority boundaries.
58. This section sets out our proposals for how local planning authorities should produce and maintain their statement of common ground. It also sets out expectations for when statements should be in place, and proposals for steps which may be taken by Government where effective co-operation is not taking place.

Background

59. The duty to co-operate, introduced through the Localism Act 2011, was designed to reflect the reality that strategic cross-boundary planning matters can only be effectively tackled when local planning authorities work together. The duty requires local planning authorities¹⁵ and certain public bodies¹⁶ to engage constructively, actively and on an ongoing basis to maximise the effectiveness of plan preparation in the context of strategic cross-boundary matters. Such matters include planning for housing need across a housing market area or developing integrated infrastructure. The duty to co-operate does not apply to Mayors with plan-making powers.
60. Compliance with the duty is tested at the examination of the development plan documents, where the Planning Inspector assesses whether the local planning authority has complied with its duty to co-operate with other local authorities during the preparation of the plan. If the plan does not meet the statutory requirements tested at examination, the Planning Inspector must recommend non adoption. This normally

¹⁵ Including county councils in England (where such councils are not local planning authorities)

¹⁶ Listed in Regulation 4 of the Town and Country Planning (Local Planning) (England) Regulations 2012

results in local planning authorities withdrawing their plan and returning to the early stages of plan-making.

61. There are a number of areas across England where local planning authorities are co-operating effectively to plan for the strategic needs of the wider area, including planning for the homes that are needed. In other areas, however, the current framework for co-operation is proving to be less effective.

62. We have identified three problems:

- the lack of transparency or sufficient certainty in the early stages of the plan-making process about how effectively local planning authorities are working together to reach agreement on strategic cross-boundary matters;
- co-operation is only tested towards the end of the plan-making process at examination, at which point it is too late to remedy any failures, and plans typically have to be withdrawn leading to significant delays in plans being put in place. This can result in an area with no plan in place for longer, leaving it vulnerable to speculative development and failing to provide certainty to neighbouring authorities over the level of need that will be met by the authority; and
- local planning authorities are not legally required to reach agreement on issues. This allows them to avoid taking difficult decisions, which can leave housing need unmet, or can push unfair and unrealistic burdens for delivering housing need on neighbouring authorities.

Statement of common ground policy

63. To support more effective joint working where planning issues need to be addressed by more than one local planning authority, **we intend to set out in the National Planning Policy Framework that all local planning authorities should produce a statement of common ground.** The objectives of the policy are to:

- a) increase certainty and transparency, earlier on in the plan-making process, on where effective co-operation is and is not happening;
- b) encourage all local planning authorities, regardless of their stage in plan-making, to co-operate effectively and seek agreement on strategic cross-boundary issues, including planning for the wider area's housing need; and
- c) help local planning authorities demonstrate evidence of co-operation by setting clearer and more consistent expectations as to how co-operation in plan-making should be approached and documented.

64. To meet these objectives, we are proposing that every local planning authority produce a statement of common ground over the housing market area or other agreed geographical area where justified and appropriate. It is proposed that the statement will

set out the cross-boundary matters, including the housing need for the area, distribution and proposals for meeting any shortfalls. In setting out the strategic cross-boundary issues, the statement will record where agreement has, and has not been reached.

65. The statement of common ground is not intended to replicate any stage of the plan-making process, nor should it be an additional burden on local planning authorities. Critically, we do not want this proposal to disrupt existing joint working arrangements where these are effective.
66. The statement should be both a road-map and a record for cross-boundary co-operation on strategic planning matters. When completed effectively, the statement will be an important, clear and concise record of how local authorities work together to resolve common strategic issues. Consequently, this should enable the examination to progress more quickly, serving as evidence as to how a local planning authority has met the duty to co-operate. It will also provide an opportunity for local planning authorities to set out where they have not been able to agree and what is needed to resolve this.

Determining the key issues and geographical area

67. The first step in developing the statement of common ground should be for local planning authorities to identify their key cross-boundary strategic planning issues, including housing and infrastructure matters. This will aid authorities in determining and justifying the geographical area over which to produce the statement of common ground.
68. The National Planning Policy Framework already makes clear that local planning authorities should work with their neighbouring authorities to produce a strategic housing market assessment where housing market areas cross administrative boundaries. Although the proposed approach to assessing local housing need shifts the focus away from housing market areas, in most instances such areas are the most appropriate geographies over which to produce a statement of common ground.
69. We also appreciate that housing market areas sometimes overlap. Furthermore we are conscious that there are areas where effective cross-boundary plan-making arrangements are already in place or are emerging. Therefore **we propose to set out in the National Planning Policy Framework that local planning authorities should use agreed housing market areas as the geographical area over which to develop statements of common ground, unless they are able to jointly determine and justify an alternative area over which to produce their statement of common ground, or unless they wish to produce more than one statement of common ground.**

Determining the primary authorities and signatories

70. The local planning authorities in the agreed geographical area will be the primary authorities responsible for developing and maintaining the document. However, it is unlikely that all authorities within the geographical area will share an interest in all strategic matters; and individual authorities may have interests which overlap with neighbouring statement of common ground areas.
71. We do not want to allow authorities to be able to delay unnecessarily the progress of a statement of common ground where they may only have an interest in one or two issues, rather than the whole document. **We therefore propose that local planning authorities should only be signatories to those strategic issues covered in the statement of common ground in which they have an interest and that authorities can be signatories to more than one statement where appropriate.**
72. **We will also make it clear that county councils and the Marine Management Organisation should be necessary signatories to those relevant strategic matters in statements of common ground which relate to their areas of planning responsibility** (which include, in the case of a county council, transport infrastructure, minerals and waste).
73. Statutory consultees will continue to play an essential part in the plan-making process through the duty to co-operate. We expect early and meaningful engagement between all parties which requires a proactive, ongoing and focussed approach to strategic planning and partnership working.
74. In areas where there is an elected mayor with strategic plan-making powers, such as London and Greater Manchester, we want to ensure that all local planning authorities in the area are effectively collaborating in plan-making, but that efforts are not duplicated. Spatial development strategies produced by Mayors consider a number of strategic issues including housing need, but Mayors are not subject to the duty to co-operate when producing their spatial development strategy. In order to ensure that the aims of the statement of common ground can be achieved in every area, **we wish to seek views on the most effective way of introducing the statement of common ground in areas with Mayors with strategic plan-making powers.**
75. Furthermore, **we would welcome views on the role of directly elected Mayors who do not have strategic plan-making powers in the production of statements of common ground.** We would also welcome views on the role of county councils in two-tier areas over and above their specific areas of planning responsibility.

Question 7:

a) do you agree with the proposed administrative arrangements for preparing the statement of common ground?

b) how do you consider a statement of common ground should be implemented in areas where there is a Mayor with strategic plan-making powers?

c) do you consider there to be a role for directly elected Mayors without strategic plan-making powers, in the production of a statement of common ground?

Production of the statement of common ground

76. **We propose that all local planning authorities should have a statement of common ground in place within twelve months following the publication of the revised National Planning Policy Framework.** However, in order to ensure greater certainty at an early stage of the process, **we expect local planning authorities to have an outline statement in place within six months following publication of the revised Framework.**

77. This will apply to all local planning authorities regardless of where they are in the plan-making cycle. Authorities who have recently adopted or submitted a plan will benefit from utilising recent, relevant evidence produced for their plan, in the process of determining the key issues and geographical area for their statement of common ground.

78. Table 2 below sets out our proposed expectations of what should be in place after six and twelve months. We do not intend these documents to be a burden on authorities and would expect the content listed below to be set out clearly and concisely. They will not be separately examined by the Planning Inspectorate, but will form part of the evidence for an individual Local Plan examination.

79. We want to ensure that the process is transparent for local authorities and their communities to understand. **We propose to set out that all statements of common ground should be published in a machine readable format on each of the primary local planning authorities' websites.**

Keeping the statement of common ground up-to-date

80. The statement of common ground should be regularly updated throughout the plan-making process to reflect emerging agreements between participating authorities, and to reflect individual planning authority's progress on plan-making. Statements will also need to be reviewed to ensure they remain relevant, both in terms of the issues being addressed but also in terms of participating authorities.

81. **We propose to set an expectation that as a minimum the statement should be reviewed, and if necessary updated, when primary authorities each reach certain key milestones in the plan-making process.** We propose that these milestones should be the key regulatory milestones in the consultation, publication, submission and adoption of a plan¹⁷.

Table 2: The contents of a statement of common ground

<p><u>Six months after publication of the policy in a revised National Planning Policy Framework</u></p> <ul style="list-style-type: none"> - The geographical area covered by the statement, and justification for the area - Key strategic cross-boundary matters being addressed by the statement, including housing need for the area, and housing targets in any adopted plans (where known), and proposals for meeting any shortfalls - Primary authorities responsible for the statement, and list of additional signatories (including matters to which each is signatory) - Governance arrangements for the co-operation process, including how the statement of common ground will be maintained and kept up to date <p><u>After twelve months, the statement of common ground should also include (in addition to the above):</u></p> <ul style="list-style-type: none"> - Process for agreeing the distribution of housing need (including unmet need) across the wider area, and agreed distributions (as agreed through the plan-making process) - A record of whether agreements have (or have not) been reached on key strategic matters - Any additional strategic cross-boundary matters to be addressed by the statement which are not already addressed
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Question 8: do you agree that the proposed content and timescales for publication of the statement of common ground are appropriate and will support more effective co-operation on strategic cross-boundary planning matters?

¹⁷ Including consultation at regulation 18; publication at regulation 19; submission at regulation 22; and adoption at regulation 26 of the Town and Country Planning (Local Planning) (England) Regulations 2012

Ensuring that effective co-operation is happening

82. Co-operation will continue to be tested by virtue of the statutory duty to co-operate, when a plan is submitted for examination. The statement of common ground should provide the primary evidence of compliance with the duty to co-operate. However, one of the key benefits of the statement of common ground is that it will increase certainty and transparency much earlier on in the plan-making process, to highlight where effective collaboration is or is not happening before a plan is submitted for examination.

83. Alongside the duty to co-operate, the Planning Inspector also assesses whether the plan is 'sound' at examination. These 'tests of soundness' are set out in national policy and state that plans should be submitted which are positively prepared, justified, effective and consistent with national policy. In order to encourage local planning authorities to plan for the wider housing need, including unmet need and ensure the statement of common ground is produced, **we are therefore proposing that the tests of soundness are amended to include that:**

a) plans should be prepared based on a strategy informed by agreements over the wider area; and

b) plans should be based on effective joint working on cross-boundary strategic priorities, which are evidenced in the statement of common ground

84. We propose that the changes to the tests of soundness set out above, should take effect in line with our expectations for when statements of common ground should be in place. **We therefore propose to apply transitional arrangements so that the new tests of soundness are not applied until 12 months after the revision to the National Planning Policy Framework.**

85. However, the key benefit of the statement of common ground is that it will increase certainty and transparency much earlier on in the plan-making process, to highlight where effective collaboration is or is not happening before a plan is submitted for examination.

86. In instances where statements of common ground are not being produced or maintained, we propose in the first instance to engage with relevant authorities to understand the issues at hand. However, where it is necessary, we will consider the use of our range of intervention powers to take action; including, for example, directing local planning authorities to amend their plan-making timetables to align the production of plans in the wider area¹⁸. This will ensure that communities and neighbouring authorities are not disadvantaged by authorities who are not effectively co-operating.

¹⁸ Section 15(4) Planning and Compulsory Purchase Act 2004
<http://www.legislation.gov.uk/ukpga/2004/5/section/15>

Statements of common ground and strategic investment in infrastructure

87. The statement of common ground provides a vehicle to set out where strategic cross-boundary infrastructure is required to unlock more land for housing. Where there are strategic cross-boundary infrastructures matters, local planning authorities will be expected to set out how they intend to resolve them and show that they have agreement with the relevant bodies. It is proposed therefore that the statement of common ground, once in place, should be submitted as supplementary evidence of effective co-operation between authorities when applying for strategic infrastructure investment.

Question 9

a) do you agree with the proposal to amend the tests of soundness to include that:

i) plans should be prepared based on a strategy informed by agreements over the wider area; and

ii) plans should be based on effective joint working on cross-boundary strategic priorities, which are evidenced in the statement of common ground?

b) do you agree to the proposed transitional arrangements for amending the tests of soundness to ensure effective co-operation?

Planning for a mix of housing needs

88. It is important that local planning authorities do not just plan for the right number of homes, but also the different size, type, tenure and range of housing that is required in their area. The identification of such need is often carried out as part of the strategic housing market assessment¹⁹. However, given our proposed new approach for assessing local housing need, we will need to update existing planning guidance on how to plan for different types of homes and will publish this alongside a revised National Planning Policy Framework. For example, where prices for a particular type of housing are rising at faster rates than others this might imply a shortage of supply of that type of housing.
89. We would also like to make it easier for local planning authorities to identify the need for other types and tenures in their area. These include, but are not limited to:
- older and disabled people;
 - families with children;
 - affordable housing;
 - self-build and custom-build development;
 - student accommodation;
 - travellers who have ceased to travel; and
 - private rented sector and build to rent housing.
90. We are proposing that plan makers should disaggregate this total need into the overall need of each type of housing as part of the plan-making process, before taking into account any constraints or other issues which may prevent them from meeting their overall housing need. This means that, as the plan develops, we expect plan makers to make evidence-based planning judgements on the different types of housing that is required within each area to ensure that the plan is effective and positively prepared.
91. We will update our planning guidance but do not envisage that it should cover every conceivable group as the evidence gathering stage could be very time consuming and disproportionate to the overall objective. The Government will engage with a range of stakeholders in updating existing planning guidance, but **we would welcome suggestions on how to streamline the process for identifying the housing need for individual groups and what evidence could be used to help them do so.**

¹⁹ Paragraph 159 of the National Planning Policy Framework, DCLG, March 2012

Planning for older people

92. Section 8 of the Neighbourhood Planning Act 2017 requires the Secretary of State to provide guidance for local planning authorities as to how they should address the housing needs that result from old age or disability. Helping local planning authorities provide a simple yet robust evidence base for such groups will form part of the guidance, and will allow them to maintain the benefits of a more streamlined approach to calculating the overall housing need.
93. When developing new planning guidance for older people, it is important that we have a shared understanding of who is included in this group. The definition of older people in Annex 2 of the National Planning Policy Framework reflects a range of people at different ages with different needs from retirement age to the very frail elderly. We are also aware of different types of housing that accommodate such a group – ranging from general market and affordable housing to specialised, purpose-built market and rental accommodation and care homes. Given the importance of planning for the need for older people as our population ages, we are reviewing whether we need to amend the definition of older people for planning purposes. **We consider that the current definition is still fit-for-purpose but would welcome views.**

Question 10:

- a) do you have suggestions on how to streamline the process for identifying the housing need for individual groups and what evidence could be used to help plan to meet the needs of particular groups?
- b) do you agree that the current definition of older people within the National Planning Policy Framework is still fit-for-purpose?

Neighbourhood planning

94. Neighbourhood planning was introduced under the Localism Act 2011 to provide a powerful set of tools for local people to guide the future development, regeneration and conservation of their area. To date over 400 neighbourhood plans are in force. Many, but not all, include plans for addressing local housing need. Through Section 1 of the Neighbourhood Planning Act 2017, we have ensured that neighbourhood plans at an earlier stage of development can be taken into account when determining planning applications. Local communities will continue to be able to choose what issues they wish to use the power of neighbourhood planning to address in their local area. When planning for their future housing need, communities should have certainty on what level of housing they should look to plan for at the outset to allow them to progress with confidence with their neighbourhood plan.

95. Neighbourhood planning groups wishing to plan for the housing needs for their area face a number of problems:

- where there is an up-to-date local plan, some neighbourhood planning groups may not have been provided with a housing figure in the local plan as a starting point for developing their neighbourhood plan;
- where there is no up-to-date local plan, neighbourhood planning groups may need to employ external consultants to estimate housing need for designated neighbourhood plan areas. This can be costly for voluntary neighbourhood forums, and can discourage some communities from neighbourhood planning; and
- the housing need figure for the neighbourhood planning area can change during their plan's preparation, for example as the local planning authority prepares and adopts its own plan. This is out of the control of neighbourhood planning groups, and frustrates local communities.

96. The housing White Paper proposed to amend national policy so that local planning authorities are expected to provide neighbourhood planning groups with a housing need figure, where this is needed to allow progress to be made with neighbourhood planning. **We propose to make clear in planning guidance that authorities may do this by making a reasoned judgement based on the settlement strategy and housing allocations in their plan, so long as the local plan provides a sufficiently up-to-date basis to do so** (including situations where an emerging local plan is close to adoption). Where this happens, we would not expect the resulting housing figure to have to be tested during the neighbourhood plan's production, as it will be derived from the strategy in the local plan and must be in general conformity with its strategic priorities.

97. To make this process easier in future, **we would welcome views on whether national policy should expect local planning authorities²⁰ to set out, within their plans, a housing figure for designated neighbourhood planning areas and parished areas within their local area.**
98. We recognise that if a local planning authority provides a figure based on an out-of-date local plan that any such figure risks being tested at the neighbourhood plan examination and so replicating the current debates on housing figures that can occur at local plan inquiries
99. Therefore, where the local plan is out-of-date and cannot be relied on as a basis for allocating housing figures, **we are proposing to set out in guidance a simple formula-based approach which apportions the overall housing need figure for the relevant local authority area/s, based on the latest figures calculated under the new standard approach (once, and assuming, it is introduced), to the neighbourhood planning area²¹.** The proposed formula is simply to take the population of the neighbourhood planning area and calculate what percentage it is of the overall population in the local planning authority area. The housing need figure in the neighbourhood planning area would then be that percentage of the local planning authority's housing need.
100. This approach would provide the starting point for neighbourhood planning groups in determining their response to meeting their housing need. It would still allow neighbourhood planning bodies to determine whether or not there are any constraints which prevent them from meeting this need. For neighbourhood plans this approach does not seek to address unmet demand from elsewhere or take account of any land or other constraints, including with the relevant local planning authority area. This is because of the limited geographical area that is covered by individual neighbourhood plans and any such decision is more appropriate to co-ordinate and determine at a strategic level.

Question 11:

a) should a local plan set out the housing need for designated neighbourhood planning areas and parished areas within the area?

b) do you agree with the proposal for a formula-based approach to apportion housing need to neighbourhood plan bodies in circumstances where the local plan cannot be relied on as a basis for calculating housing need?

²⁰ And, where relevant, Mayors of combined authorities (and the Mayor of London) who have plan-making powers

²¹ The housing need for the local authority area would be that produced using all stages of the method set out in previous sections of this consultation.

Proposed approach to viability assessment

Introduction

101. Section 106 of the Town and Country Planning Act 1990 (“section 106”) enables a local planning authority to seek agreement from applicants to enter into planning obligations to mitigate the impact of otherwise unacceptable development, to make it acceptable in planning terms. Planning obligations can relate to a wide range of infrastructure such as highways, public transport, education, community and cultural facilities, green infrastructure, environmental mitigation and affordable housing.
102. The Community Infrastructure Levy (CIL) came into force in April 2010 and allows local planning authorities in England and Wales to raise funds from owners or developers of land undertaking new building projects in their area, to help fund infrastructure to address the cumulative impact of development.
103. This consultation takes forward the commitment in the housing White Paper to consider changes to section 106 practice in the short term to address issues in the operation of agreements. This included a commitment to consult on standardised open book section 106 agreements, to reduce disputes and delays, and how data on planning obligations could be monitored and reported on to increase transparency.
104. The Government continues to consider wider options for reform, in the light of the independent review of CIL²² and its relationship with section 106 published alongside the housing White Paper. We are also aware of some technical issues with the implementation of CIL. The Government is keen to ensure that CIL legislation operates as intended and will consider how to ensure certainty for developers and local authorities, including clarifications through legislation if necessary.

Background

105. Stakeholders have told us that the use of viability assessments in planning permission negotiations has expanded to a degree that it causes complexity and uncertainty and results in fewer contributions for infrastructure and affordable housing than required by local policies.
106. Viability assessments can be complex. In simple terms a site is viable if the value generated by its development is more than the cost of developing it. However, the range and complexity of variables in assessing this are such that the process is seen as being susceptible to gaming; and is often viewed with suspicion by authorities, communities and other observers. In particular, estimating future values and costs can

²² https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/589637/CIL_REPORT_2016.pdf

be manipulated to reflect a range of outcomes. Furthermore, appraisals are often not published on the grounds of commercial confidentiality. This means that the process is neither easily understood nor transparent.

107. The Communities and Local Government Committee report into Capacity In The Home Building Industry²³, published in April this year, identifies that: “One reason that the negotiations over a site’s viability can take a long time is the lack of transparency: a local authority has no way of assessing whether a developer’s claim that a site has become unviable is true, or a negotiating tactic”. Their recommendations include developers sharing viability assumptions and assessments with local authorities to ensure that the provision of infrastructure, affordable housing and build density is not compromised.
108. Against this background, this consultation proposes changes to improve certainty and transparency in the assessment of viability for plan-making and decision-taking, through amendments to policy and guidance.

Proposed approach to viability in plan-making

109. National planning policy is clear that local planning authorities should plan for the homes and jobs needed in the area, and the provision of infrastructure and facilities. It also expects that they should address the need for all types of housing, including affordable homes, and that the plan should be deliverable (taking into account the cumulative impact of local standards and needs). To ensure there is a robust basis for assessing viability at the plan-making stage – and to lessen the need for this to be revisited when planning applications come forward – we propose to amend national planning policy to set out additional expectations for plans.
110. **We propose that local planning authorities²⁴ should set out the types and thresholds for affordable housing contributions required; the infrastructure needed to deliver the plan; and expectations for how these will be funded and the contributions developers will be expected to make.** This would make clear how the key strategic priorities that need to be planned for are to be delivered.

Question 12: do you agree that local plans should identify the infrastructure and affordable housing needed, how these will be funded and the contributions developers will be expected to make?

²³ <https://www.parliament.uk/business/committees/committees-a-z/commons-select/communities-and-local-government-committee/inquiries/parliament-2015/capacity-in-the-homebuilding-industry-16-17/>

²⁴ And, where relevant, Mayors of combined authorities (and the Mayor of London) who have plan-making powers

111. While the deliverability of these plans needs to be tested, we want to ensure that this is done in a way which is both proportionate and effective. **We are interested in views on whether changes to planning guidance could be made to improve the way that plans are tested for viability to ensure they are deliverable.**

Question 13: in reviewing guidance on testing plans and policies for viability, what amendments could be made to improve current practice?

Proposed Approach to Viability in Decision Taking

112. Planning decisions must be taken in accordance with the development plan unless material considerations indicate otherwise. Development plan policies should already be tested for viability, and therefore developers and landowners should ensure that they are considering the cost of any policy requirements when proposing schemes. However, in practice an increase in planning obligations being contested on viability grounds is affecting the ability of authorities to ensure that policy requirements, such as the delivery of affordable housing, are being met in full.

113. **We propose to make clear in the National Planning Policy Framework that where policy requirements have been tested for their viability, the issue should not usually need to be tested again at the planning application stage.** Applications that meet requirements set out in the plan should be assumed to be viable. It would remain for the decision maker to decide what weight is to be given to the material considerations in each case, including the impact on a scheme's viability.

Question 14: do you agree that where policy requirements have been tested for their viability, the issue should not usually need to be tested again at the planning application stage?

114. Housing associations and infrastructure providers can helpfully assist in the assessment of costs and values. Housing associations in particular can assist with valuations in terms of how much they would be able to pay for different types of affordable housing on the site. Engaging these relevant parties early on in the plan-making and decision-taking stages can result in more robust policies and assessments and avoid the need for renegotiation of planning obligations. **We propose to update guidance to encourage engagement with housing associations and infrastructure providers so that they can better inform the plan-making and viability assessment process.**

Question 15: how can Government ensure that infrastructure providers, including housing associations, are engaged throughout the process, including in circumstances where a viability assessment may be required?

Improving transparency

115. In cases where viability assessment is still needed in the course of determining planning applications, the process must become more open, transparent and easily understood. Full and open publication of all viability assessments would greatly increase transparency. However, viability assessment is complex and technical. It is important the communities and decision makers can understand the assumptions and findings of viability assessments. **We propose to update planning guidance to help make viability assessments simpler, quicker and more transparent.** We are interested in views on the most helpful approach. For example, guidance could range from setting out clearly defined terms to be used, a preferred approach to calculating costs and values (including land values), the format and accessibility of viability assessment reports, through to detailed process and methodology.

Question 16: what factors should we take into account in updating guidance to encourage viability assessments to be simpler, quicker and more transparent, for example through a standardised report or summary format?

116. We also think there is scope to improve how information contained in section 106 agreements is communicated through more consistent reporting on planning obligations. Local planning authorities are required to publish section 106 agreements, together with details of any modification or discharge of the planning obligation on their planning register. The agreement sets out how local authorities are required to use the funding they receive.
117. Whilst there is a requirement to record each section 106 agreement on the planning register, there is no legal requirement for local planning authorities to publish summary data from those agreements, or to monitor and report on whether these benefits have been received and spent. Nonetheless, we have seen some good practice from across England where local planning authorities are publishing information on section 106 (and CIL) so that their communities can understand what benefits have been secured from development and when and how planning obligations have been spent.
118. **We propose to amend national planning policy so that local planning authorities (and elected Mayors) should set out in their plans how they will monitor, report on and publicise funding secured through section 106 agreements, and how it is spent, following an open data approach.** This would include for in-kind provision of land, affordable housing and infrastructure, and should be made available in machine-readable formats. We are interested in views on what factors we should take into account when considering guidance on a standard approach to monitoring and reporting planning obligations.

119. We are also interested in understanding how local planning authorities and applicants can work together to better publicise infrastructure and affordable housing secured through new development once development has commenced (for example, on-site signage and publicity on the local authority website); and at which stage of the application this information would be publicised.

Question 17:

- a) do you agree that local planning authorities should set out in plans how they will monitor and report on planning agreements to help ensure that communities can easily understand what infrastructure and affordable housing has been secured and delivered through developer contributions?
- b) what factors should we take into account in preparing guidance on a standard approach to monitoring and reporting planning obligations?
- c) how can local planning authorities and applicants work together to better publicise infrastructure and affordable housing secured through new development once development has commenced, or at other stages of the process?

Planning fees

Introduction

120. We know it is vital to have well-resourced, effective and efficient local authority planning departments. At their best they are the engine room for providing new homes and economic growth in their local area. They work with communities to set the spatial framework and support the delivery of the local vision. A lack of capacity and capability in planning departments can act as a constraint and restrict developers' ability to get on site and build.
121. An increase in planning application fees is an important step to recognise and address the significant, nation-wide problem of under-resourced local planning authorities.

Background

122. Paragraph 2.15 of the housing White Paper set out the Government's intention to increase nationally set planning fees by 20 per cent for those local planning authorities who commit to invest the additional fee income in improving the productivity of their planning departments. We subsequently invited authorities to make this commitment. We welcome that all local planning authorities chose to make the commitment and on this basis we will bring forward regulations at the earliest opportunity which, subject to Parliamentary scrutiny, enable local authorities to increase fees.
123. Our approach to planning fees recognises that users and potential beneficiaries of the planning system should contribute to the costs incurred by local planning authorities in delivering the service. Fees help to secure the financial sustainability of planning departments, ensuring that the planning system has the right level of skills and capacity to assess and make the important decisions affecting the locality, supporting appropriate local growth and the new homes we are committed to see delivered.
124. We know that many local planning authorities have to invest additional financial resource into their planning services to supplement fee income to meet the challenge of delivering new homes. We want to support these authorities, particularly those that need additional specialist skills for, or are incurring additional costs in, undertaking their planning functions to support the delivery of well-designed and attractive new homes for their local area.

125. The housing White Paper suggested that an increase of a further 20 per cent on the current fee level could be applied to those authorities who are delivering the homes their communities need. **We are interested in obtaining views on the most appropriate criteria to enable this fee increase to be applied.**

126. In considering how any further fee increase could be applied we are interested in options that can support housing delivery while recognising that such increases should not impact unfairly on applications for other types of development.

Question 18:

a) do you agree that a further 20 per cent fee increase should be applied to those local planning authorities who are delivering the homes their communities need? What should be the criteria to measure this?

b) do you think there are more appropriate circumstances when a local planning authority should be able to charge the further 20 per cent? If so, do you have views on how these circumstances could work in practice?

c) should any additional fee increase be applied nationally once all local planning authorities meet the required criteria, or only to individual authorities who meet them?

d) are there any other issues we should consider in developing a framework for this additional fee increase?

Other issues

Build out

127. The Government wants to see homes built faster and expects house builders to deliver more homes, more quickly and to a high quality standard. We recognise that after planning permission for new homes is granted, a variety of factors can prevent development from starting and slow down delivery. Rather than focussing on a single issue, the housing White Paper acknowledged that all parties in the development process need to play their part in speeding up the delivery of much-needed new homes. That is why the housing White Paper set out a wide-ranging approach, which involves:

- boosting local authority capacity and capability to deliver;
- ensuring infrastructure is provided at the right time in the right places, including the £2.3 billion Housing Infrastructure Fund;
- securing timely connection to utilities;
- tackling delays caused by inappropriate use of pre-commencement conditions;
- diversifying the housebuilding market – supporting new entrants and encouraging modern methods of construction;
- addressing skills shortages by growing the construction workforce;
- holding local planning authorities to account through a new Housing Delivery Test; and
- giving local authorities new and improved tools to hold developers to account for delivery of new homes, backed up by more transparent data about build out.

128. We have already taken some steps, for example, through launching the Housing Infrastructure Fund in July 2017. Insofar as we consulted on important elements of the package outlined above, we are considering the responses to that consultation. However, in the context of the continuing and substantial gap between the number of homes granted planning permission and the number of homes being built, we are keen to examine if there are other options for increasing build out rates.

Question 19: having regard to the measures we have already identified in the housing White Paper, are there any other actions that could increase build out rates?

Prematurity

129. The housing White Paper set out a number of proposals to support plan production, including the standard method for assessing housing need detailed in this consultation. As a further way of encouraging local authorities to get plans in place, we intend to set out the circumstances when a planning application may be refused on the grounds of prematurity in the National Planning Policy Framework, rather than in guidance (where they are currently). The prematurity guidance is designed to prevent emerging plans, where they are at an advanced stage of production, from being undermined by proposals that are allowed before the plan can be finalised. This would help provide stability and certainty in situations where confidence in the plan-making process might otherwise be weakened.

Opportunity to review other housing White Paper responses

130. We recognise that a number of proposals set out in this consultation paper are closely related to, or impact upon, measures proposed in the housing White Paper. These include proposals on 5 year housing land supply (Questions 3b and 16 of the housing White Paper) and on the Housing Delivery Test (Questions 17b, 28, 29 and 30).

131. Therefore we would like to give those who have already commented on the housing White Paper a further opportunity to supplement their responses to these questions and let us know whether there are any other areas where they would like to add to, or amend responses to the housing White Paper consultation. In doing so we would be grateful if respondents identify those questions to which the additional comments relate.

132. For the avoidance of doubt, please note that the consultation period for the housing White Paper is now closed and any late responses that relate to questions that are not affected by this consultation will not be considered.

About this consultation

This consultation document and consultation process have been planned to adhere to the Consultation Principles issued by the Cabinet Office.

Representative groups are asked to give a summary of the people and organisations they represent, and where relevant who else they have consulted in reaching their conclusions when they respond.

Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004).

If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

The Department for Communities and Local Government will process your personal data in accordance with DPA and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties.

Individual responses will not be acknowledged unless specifically requested.

Your opinions are valuable to us. Thank you for taking the time to read this document and respond.

Are you satisfied that this consultation has followed the Consultation Principles? If not or you have any other observations about how we can improve the process please contact us via the [complaints procedure](#).

Consultation response proforma

If you are responding by email or in writing, please reply using this questionnaire pro-forma, which should be read alongside the consultation document. You are able to expand the comments box should you need more space

Your Details (Required fields are indicated with an asterix(*))

Family Name (Surname)*	
First Name*	
Title	
Address	
City/Town*	
Postal Code*	
Telephone Number	
Email Address*	

Are the views expressed on this consultation your own personal views or an official response from an organisation you represent?* (please tick as appropriate)

- Personal View
- Organisational Response

Name of Organisation (if applicable)

--

If you are responding on behalf of an organisation, please tick the box which best describes your organisation

- Local Authority (including National Parks, Broads Authority, the Greater London Authority and London Boroughs)
- Neighbourhood Planning Body/Parish or Town Council
- Private Sector organisation (including housebuilders, housing associations, businesses, consultants)
- Trade Association / Interest Group/Voluntary or Charitable organisation

Other (Please specify)

--

Proposed approach to calculating the local housing need

Question 1 (a)

do you agree with the proposed standard approach to assessing local housing need? If not, what alternative approach or other factors should be considered?

- Yes
- No
- Not sure / don't know

Please enter your comments here

Question 1(b)

how can information on local housing need be made more transparent?

Please enter your comments here

Question 2

do you agree with the proposal that an assessment of local housing need should be able to be relied upon for a period of two years from the date a plan is submitted?

- Yes
- No
- Not sure / don't know

Please enter your comments here

Question 3

do you agree that we should amend national planning policy so that a sound plan should identify local housing needs using a clear and justified method?

- Yes
- No
- Not sure / don't know

Please enter your comments here

Question 4

do you agree with our approach in circumstances when plan makers deviate from the proposed method, including the level of scrutiny we expect from the Planning Inspectors?

Yes

No

Not sure / don't know

Please enter your comments here

Question 5(a)

do you agree that the Secretary of State should have discretion to defer the period for using the baseline for some local planning authorities? If so, how best could this be achieved, what minimum requirements should be in place before the Secretary of State may exercise this discretion, and for how long should such deferral be permitted?

Yes

No

Not sure / don't know

Please enter your comments here

Question 5(b)

do you consider that authorities that have an adopted joint local plan, or which are covered by an adopted spatial development strategy, should be able to assess their five year land supply and/or be measured for the purposes of the Housing Delivery Test, across the area as a whole?

- Yes
- No
- Not sure / don't know

Please enter your comments here

Question 5 (c)

do you consider that authorities that are not able to use the new method for calculating local housing need should be able to use an existing or an emerging local plan figure for housing need for the purposes of calculating five year land supply and to be measured for the purposes of the Housing Delivery Test?

- Yes
- No
- Not sure / don't know

Please enter your comments here

Question 6

do you agree with the proposed transitional arrangements for introducing the standard approach for calculating local housing need?

Yes

No

Not sure / don't know

Please enter your comments here

Statement of Common Ground

Question 7(a)

do you agree with the proposed administrative arrangements for preparing the statement of common ground?

Yes

No

Not sure / don't know

Please enter your comments here

Question 7(b)

how do you consider a statement of common ground should be implemented in areas where there is a Mayor with strategic plan-making powers?

Please enter your comments here

Question 7(c)

do you consider there to be a role for directly elected Mayors without strategic plan-making powers, in the production of a statement of common ground?

- Yes
- No
- Not sure / don't know

Please enter your comments here

Question 8

do you agree that the proposed content and timescales for publication of the statement of common ground are appropriate and will support more effective co-operation on strategic cross-boundary planning matters?

- Yes
- No
- Not sure / don't know

Please enter your comments here

Question 9(a)

do you agree with the proposal to amend the tests of soundness to include that:

i) plans should be prepared based on a strategy informed by agreements over the wider area; and

ii) plans should be based on effective joint working on cross-boundary strategic priorities, which are evidenced in the statement of common ground?

- Yes
- No
- Not sure / don't know

Please enter your comments here

Question 9(b)

do you agree to the proposed transitional arrangements for amending the tests of soundness to ensure effective co-operation?

- Yes
- No
- Not sure / don't know

Please enter your comments here

Planning for a mix of housing needs

Question 10(a)

do you have any suggestions on how to streamline the process for identifying the housing need for individual groups and what evidence could be used to help plan to meet the needs of particular groups?

Please enter your comments here

Question 10(b)

do you agree that the current definition of older people within the National Planning Policy Framework is still fit-for-purpose?

- Yes
- No
- Not sure / don't know

Please enter your comments here

Neighbourhood Planning

Question 11(a)

should a local plan set out the housing need for designated neighbourhood planning areas and parished areas within the area?

- Yes
- No
- Not sure / don't know

Please enter your comments here

Question 11(b)

do you agree with the proposal for a formula-based approach to apportion housing need to neighbourhood plan bodies in circumstances where the local plan cannot be relied on as a basis for calculating housing need?

- Yes
- No
- Not sure / don't know

Please enter your comments here

Proposed approach to Viability Assessment

Question 12

do you agree that local plans should identify the infrastructure and affordable housing needed, how these will be funded and the contributions developers will be expected to make?

Yes

No

Not sure / don't know

Please enter your comments here

Question 13

in reviewing guidance on testing plans and policies for viability, what amendments could be made to improve current practice?

Please enter your comments here

Question 14

do you agree that where policy requirements have been tested for their viability, the issue should not usually need to be tested again at the planning application stage?

Yes

No

Not sure / don't know

Please enter your comments here

Question 15

how can Government ensure that infrastructure providers, including housing associations, are engaged throughout the process, including in circumstances where a viability assessment may be required?

Please enter your comments here

Question 16

what factors should we take into account in updating guidance to encourage viability assessments to be simpler, quicker and more transparent, for example through a standardised report or summary format?

Please enter your comments here

Question 17(a)

do you agree that local planning authorities should set out in plans how they will monitor and report on planning agreements to help ensure that communities can easily understand what infrastructure and affordable housing has been secured and delivered through developer contributions?

Yes

No

Not sure / don't know

Please enter your comments here

Question 17(b)

what factors should we take into account in preparing guidance on a standard approach to monitoring and reporting planning obligations?

Please enter your comments here

Question 17(c)

how can local planning authorities and applicants work together to better publicise infrastructure and affordable housing secured through new development once development has commenced, or at other stages of the process?

Please enter your comments here

Planning fees

Question 18(a)

do you agree that a further 20 per cent fee increase should be applied to those local planning authorities who are delivering the homes their communities need? What should be the criteria to measure this?

- Yes
- No
- Not sure / don't know

Please enter your comments here

Question 18(b)

do you think there are more appropriate circumstances when a local planning authority should be able to charge the further 20 per cent? If so, do you have views on how these circumstances could work in practice?

- Yes
- No
- Not sure / don't know

Please enter your comments here

Question 18(c)

should any additional fee increase be applied nationally once all local planning authorities meet the required criteria, or only to individual authorities who meet them?

- Apply nationally
- Apply to Individual authorities only
- Not sure / don't know

Please enter your comments here

Question 18(d)

are there any other issues we should consider in developing a framework for this additional fee increase?

Please enter your comments here

Other issues

Question 19

having regard to the measures we have already identified in the housing White Paper, are there any other actions that could increase build out rates?

- Yes
- No
- Not sure / don't know

Please enter your comments here

Your opinion is valuable to us. Thank you for taking the time to read the consultation and respond.