

## **CCN Consultation Response**

### ***Levelling-Up and Regeneration Bill: reforms to national planning policy***

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#### **About the County Councils Network**

1. The County Councils Network (CCN) represents 36 English local authorities that serve counties. The 25 county and 11 county unitary authorities that make up CCN are the largest part of the local government family. They represent all four corners of England, from Cumbria to Cornwall, Durham to Kent, North Yorkshire to Suffolk, Derbyshire to Essex.
2. Our members bear differing planning responsibilities under existing planning regulations. Crucially, county councils lead on the provision of infrastructure, transport, flood risk, local nature recovery and climate change, and on economic development that supports housing and other developments in district local plans. CCN's county unitary members are responsible for both development planning and infrastructure delivery.
3. The essential services our members provide touch on the everyday lives of residents and businesses across 86% of England's landmass and 47% of its population. The areas represented by our members constitute 38% of local government expenditure; 44% of total public expenditure (£201bn); and generate just under half of all tax revenues (£255bn). The economies of our areas contribute 38% of Gross Value Added (GVA) and 44% of employment.

#### **Key points**

4. CCN welcomes the opportunity to respond to this consultation. Our key points are:
  - We welcome the principle of providing additional certainty that the government is trying to give through national policy to make it easier for local authorities to prepare local plans, and more certainty about whether a plan will be passed at examination.
  - However, we are concerned that many of the specific policies related to housing delivery and plan making conflict with the overarching ambition of delivering more housing.
  - We believe that the changes will reduce housing delivery in many areas, with no mechanism outlined to allow unmet need to be met elsewhere. This has the potential to cause a serious undersupply of housing for many years to come. This in turn will also lead to a reduction of infrastructure delivery.
  - Place-shaping and planning for growth does not rely exclusively on the statutory planning system, and there is a wider role that county councils play in the two-tier system. This should be recognised by Government, and a stronger approach to strategic planning should be adopted to overcome some of the challenges, allowing areas to work together to agree strategic priorities and overcome housing supply and infrastructure delivery issues.
  - Climate change and the delivery of net zero appear to be an after thought in the consultation, and much more needs to be done to allow councils to plan for and meet net zero targets.

5. We encourage the department to read this consultation response in conjunction with the individual responses from our member councils. Our response to the consultation questions can be found below.

### **Response to consultation questions.**

**Question 1: Do you agree that local planning authorities should not have to continually demonstrate a deliverable 5-year housing land supply (5YHLS) for as long as the housing requirement set out in its strategic priorities is less than 5 years old?**

We would agree with this approach.

**Question 2: Do you agree that buffers should not be required as part of 5YHLS calculations (this includes the 20% buffer as applied by the Housing Delivery Test)?**

We generally agree that buffers can add complexity when it comes to plan-making and prolong the plan-making period and are generally supportive of their removal. However, we believe that there should be some provisions in place where housing targets are continually being missed. This may not be the fault of the local planning authority, and market interventions such as working with Homes England could also be considered.

As we set out in our response below, we believe that a stronger approach to strategic planning could help to deliver more housing, particularly in those areas where delivery is challenging due to planning or land constraints, such as the Green Belt, or a reliance on Brownfield sites which are expensive to remediate.

**Question 3: Should an oversupply of homes early in the plan period be taken into consideration when calculating a 5YHLS later on, or is there an alternative approach that is preferable?**

We agree that oversupply should be taken into consideration when calculating a 5YHLS, although would question how frequently an oversupply takes place during the early stages of a plan period. However, if taking oversupply into consideration, planning authorities should be mindful of updated population and household formation projections, which may offset any perceived oversupply.

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

Please see response to question 3.

**Question 5: Do you have any views about the potential changes to paragraph 14 of the existing Framework and increasing the protection given to neighbourhood plans?**

We would support increased protection to neighbourhood plans where the policies are in general conformity with a local plan in terms of housing delivery and need.

**Question 6: Do you agree that the opening chapters of the Framework should be revised to be clearer about the importance of planning for the homes and other development our communities need?**

CCN is very supportive of updating the opening chapters of the Framework to be clearer about the importance of planning for the homes and other development that communities need. However, as we go on to state, we do not believe the changes to the policies in the framework that are proposed will see this ambition being delivered.

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

CCN is supportive of changes that make plan-making clearer and more approachable so that as many planning authorities adopt up-to-date local plans as possible. We also recognise that some areas will have genuine constraints that may mean that they cannot deliver their full objectively assessed housing need, and these areas should be able to plan to meet the need they can meet, rather than stall a plan over uncertainty whether it will pass at examination.

However, where authorities have constraints that would mean they are unable to meet their objectively assessed need, we believe that this should not be a 'stopping point'. In such instances there should be a process in place that requires them to work with other authorities, perhaps across a county geography, to plan for unmet need elsewhere. As a country, we are already not delivering enough housing to meet annual housing targets, and whilst we support a process that makes simpler to produce a local plan, we do not support the under delivery of housing.

Please refer to our answer at Question 15 for further details on this.

**Question 8: Do you agree that policy and guidance should be clearer on what may constitute an exceptional circumstance for the use of an alternative approach for assessing local housing needs? Are there other issues we should consider alongside those set out above?**

We agree with the approach to making policy and guidance clearer on what may constitute an exceptional circumstance. However, please see our response to Question 7 above, and to Question 15.

**Question 9: Do you agree that national policy should make clear that Green Belt does not need to be reviewed or altered when making plans, that building at densities significantly out-of-character with an existing area may be considered in assessing whether housing need can be met, and that past over-supply may be taken into account?**

We agree that amending national policy as outlined above would help to speed-up plan-making and reduce uncertainty around whether a plan was going to be found sound at examination. As we have previously stated, this should not be a stopping point, and mechanisms should be in place that require an authority to work with other authorities to explore if unmet need could be delivered elsewhere.

Please see our response to Question 15 for further detail.

**Question 10 - Do you have views on what evidence local planning authorities should be expected to provide when making the case that need could only be met by building at densities significantly out-of-character with the existing area?**

Please see individual responses from CCN member councils.

**Question 11: Do you agree with removing the explicit requirement for plans to be 'justified', on the basis of delivering a more proportionate approach to examination?**

Overall CCN agrees with this approach, as we are aware that large amounts of evidence are often required which takes considerable time and resource to prepare. However, guidance must set out what constitutes 'proportionate assessment'. We understand that the 'alignment policy' and 'gateway checks' may be introduced to allow issues at the plan-making stage to be resolved. These processes could be used to ensure that authorities are undertaking a proportionate assessment, and therefore pass at examination.

**Question 12: Do you agree with our proposal to not apply revised tests of soundness to plans at more advanced stages of preparation? If no, which if any, plans should the revised tests apply to?**

We agree with this approach.

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

CCN members agree with the application of the urban uplift and directing a higher level of housing growth to urban areas. However, as we set out in our response to Question 15, this is likely to have a number of consequences for the authorities surrounding the urban areas and mechanisms must be in place to allow better joint working among these authorities.

**Question 14: What, if any, additional policy or guidance could the department provide which could help support authorities plan for more homes in urban areas where the uplift applies?**

Please see individual responses from CCN member councils, along with our response to Question 15 below.

**Question 15: How, if at all, should neighbouring authorities consider the urban uplift applying, where part of those neighbouring authorities also functions as part of the wider economic, transport or housing market for the core town/city?**

Whilst CCN is supportive of changes that make it easier and faster to get a local plan in place, we are concerned that many of the changes to national policy that are indicated within this consultation could have a significant impact on the supply of housing and growth across the country. The consultation does not address this, nor does it recognise the important role that county councils play in two-tier areas in place-based growth. Our response to this question applies to guidance that could be given to those authorities neighbouring authorities where the urban uplift will apply, but we believe it should apply to all local authorities across the country to deliver better planning outcomes.

The introduction of the Levelling Up and Regeneration Bill will see the removal of the Duty to Cooperate – the only legal mechanism that requires local authorities to demonstrate how they have worked together on cross-boundary issues. Whilst we know that the department

is exploring options to replace the Duty, such as gateway checks, we do not believe these will lead to better cross-boundary planning that helps to set out delivery priorities and address issues of a strategic nature.

County councils in two-tier areas are responsible for many areas that influence and are influenced by the planning system, and these would benefit from a stronger approach to joint strategic planning that is currently lacking in the system. We have welcomed the introduction of Joint Spatial Development Strategies (JSDS) as a tool to allow strategic planning across two or more district councils, but we remain concerned that they are voluntary and will not seek the advice of county councils. We also believe that they will not come forward in areas where there are the most contentious issues to address, such as areas with a high proportion of Green Belt land, and areas of particularly high growth.

The policies proposed in this consultation allow an increased level of flexibility for local planning authorities to justify planning for a lower housing target than their objectively assessed need, where there are constraints that are considered to prevent an area being able to fulfil that need. However, there is currently no policy position or mechanism proposed that would enable unmet need to be delivered elsewhere. As we outline in our response at Question 53 of this consultation, the planning system would benefit from a stronger approach to strategic planning which would bring many benefits to communities and places.

We believe that there are a variety of options at the Government's disposal that would enable stronger strategic planning. These options include:

- Amending the Levelling-Up and Regeneration Bill to require authorities preparing Joint Spatial Development Strategies to seek assistance from other authorities within the plan area, including county councils. Please see the attached briefing note on this topic.
- Adding strategic planning powers to the devolution to make it clear that strategic planning can be negotiated through County Deals or through a County Combined Authority.
- Implementing governance changes previously suggested by the County Councils Network such as strategic planning advisory bodies, that could be mandated across the country and would provide the most robust option to implementing strategic planning.

We believe a stronger approach to strategic planning would bring numerous benefits. Our proposals would add value to the system and help to provide an important link between national and local planning policy, enabling the planning system to contribute more widely to government objectives of levelling-up and increasing productivity and economic prosperity. Local plans would still have an important place in the system, providing policies for housing mix, allocating sites and detailed policies for design. Strategic plans, or frameworks, have a different role and there are other policy areas that would benefit from a more strategic approach to their planning and implementation.

We also believe the proposal would have the added benefit of helping to speed up local plan making. Whilst local planning authorities await this further certainty and guidance on plan making, authorities could be working together to prepare spatial development strategies or strategic plans that provide a broad framework to set out priorities for growth, and some of the spatial and investment decisions upon which local plans can be prepared, including allocating sites and preparing design codes.

As we outline in our response to question 53, there are many areas that would benefit from a more strategic and collaborative approach to planning, including infrastructure provision, economic growth, climate change and net zero, and environmental considerations such as biodiversity net gain, nutrient neutrality and water supplies. These are all intrinsically linked to the built environment and the way communities live and work, and many fall within the responsibility of county councils in two-tier areas.

CCN would welcome further engagement with the department on this matter, ensuring that the role of county councils is considered within two-tier areas, as well as the role of local planning authorities.

**Question 16: Do you agree with the proposed 4-year rolling land supply requirement for emerging plans, where work is needed to revise the plan to take account of revised national policy on addressing constraints and reflecting any past over-supply? If no, what approach should be taken, if any?**

We agree with this approach.

**Question 17: Do you consider that the additional guidance on constraints should apply to plans continuing to be prepared under the transitional arrangements set out in the existing Framework paragraph 220?**

Please see individual responses from CCN member councils.

**Question 18: Do you support adding an additional permissions-based test that will 'switch off' the application of the presumption in favour of sustainable development where an authority can demonstrate sufficient permissions to meet its housing requirement?**

CCN support this approach.

**Question 19: Do you consider that the 115% 'switch-off' figure (required to turn off the presumption in favour of sustainable development Housing Delivery Test consequence) is appropriate?**

Whilst we are supportive of the proposed 'switch-off', we believe more work must be done with local planning authorities before a figure is set.

**Question 20: Do you have views on a robust method for counting deliverable homes permissioned for these purposes?**

Please see individual responses from CCN member councils.

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

Please see individual responses from CCN member councils.

**Question 22: Do you agree that the government should revise national planning policy to attach more weight to Social Rent in planning policies and decisions? If yes, do you have any specific suggestions on the best mechanisms for doing this?**

CCN strongly agrees with the approach to attaching more weight to the delivery of Social Rented housing within national policy. There is widely publicised evidence shows that there

has been a persistent under delivery of this type of home for many years. This has had a wide ranging impact, from a lack of suitable accommodation for families on lower incomes, forcing them into often unsuitable temporary accommodation and increasing reliance on the benefits system and Universal Credit. A stronger approach to delivering social rented housing will bring wide-ranging benefits.

Local planning authorities should plan to meet their objectively assessed housing need. We therefore believe that national policy should not dictate expectations over the delivery of types of homes, but authorities should have the autonomy to plan for the types of homes that best meet need in their area.

Having strong policies in place to support the delivery of housing for social rent does not mean that they will be delivered. Policy and guidance will also need to be updated sending a clear message to developers of the expectation of delivery of these types of homes. A recent report published by CCN concludes that the Infrastructure Levy will not be able to deliver both the level affordable housing *and* infrastructure that is required to support homes. Other and increased methods of financing, such as the Affordable Homes Programme, will therefore be vital if the ambition is to be achieved, as the private sector will be unable on its own to deliver the step change required.

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

CCN is highly supportive of this approach.

**Question 24: Do you have views on the effectiveness of the existing small sites policy in the National Planning Policy Framework (set out in paragraph 69 of the existing Framework)?**

Small sites can make an important contribution to delivery of housing, where they are available, suitable, and deliverable.

**Question 25: How, if at all, do you think the policy could be strengthened to encourage greater use of small sites, especially those that will deliver high levels of affordable housing?**

Please see individual responses from CCN member councils.

**Question 26: Should the definition of “affordable housing for rent” in the Framework glossary be amended to make it easier for organisations that are not Registered Providers – in particular, community-led developers and almshouses – to develop new affordable homes?**

We would agree with this approach.

**Question 27: Are there any changes that could be made to exception site policy that would make it easier for community groups to bring forward affordable housing?**

Please see individual responses from CCN member councils.

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

Stronger support package around knowledge and skills required to plan for and deliver homes will often be necessary. Government could support local authorities to support community groups but this will require additional funding.

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

Please see individual responses from CCN member councils.

**Question 30: Do you agree in principle that an applicant's past behaviour should be taken into account into decision making? If yes, what past behaviour should be in scope?**

We agree with the principle of considering an applicant's past behaviour when decision-making, particularly where there is a track record of irresponsible behaviour.

**Question 31: Of the 2 options above, what would be the most effective mechanism? Are there any alternative mechanisms?**

Whilst we agree with the principle of considering an applicants' past behaviour, we consider that the options presented could deter applications from coming forward rather than improve behaviour. Instead, where an applicant does have a track record of irresponsible behaviour, we believe that the planning authority should be able to impose certain sanctions on the applicant to ensure that any permissions are delivered in a timely way.

**Question 32: Do you agree that the 3 build out policy measures that we propose to introduce through policy will help incentivise developers to build out more quickly? Do you have any comments on the design of these policy measures?**

We agree in principle with this but await further detail. We urge the department to work with local planning authorities as these policies are developed.

**Question 33: Do you agree with making changes to emphasise the role of beauty and placemaking in strategic policies and to further encourage well-designed and beautiful development?**

CCN supports this approach.

**Question 34: Do you agree to the proposed changes to the title of Chapter 12, existing paragraphs 84a and 124c to include the word 'beautiful' when referring to 'well-designed places' to further encourage well-designed and beautiful development?**

CCN supports this approach.

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

We believe this is best practice that is already happening across many local planning authorities and agree with the principle standardising this approach.



**Question 36: Do you agree that a specific reference to mansard roofs in relation to upward extensions in Chapter 11, paragraph 122e of the existing Framework is helpful in encouraging LPAs to consider these as a means of increasing densification/creation of new homes? If no, how else might we achieve this objective?**

Please see individual responses from CCN member councils.

**Question 37: How do you think national policy on small scale nature interventions could be strengthened? For example in relation to the use of artificial grass by developers in new development?**

Please see individual responses from CCN member councils.

**Question 38: Do you agree that this is the right approach to making sure that the food production value of high value farmland is adequately weighted in the planning process, in addition to current references in the Framework on best and most versatile agricultural land?**

Please see individual responses from CCN member councils.

**Question 39: What method and actions could provide a proportionate and effective means of undertaking a carbon impact assessment that would incorporate all measurable carbon demand created from plan-making and planning decisions?**

Please see individual responses from CCN member councils.

**Question 40: Do you have any views on how planning policy could support climate change adaptation further, including through the use of nature-based solutions which provide multi-functional benefits?**

Planning policy could support and encourage the retrofit of existing homes to make them more energy efficient, reduce carbon emissions and bring down household bills – this would be particularly welcome in the context of the cost-of-living crisis that we are currently in.

CCN members remain highly ambitious to meet net zero targets, and some local plans have been found unsound at examination due to having targets that go over and above national policy. Areas should not be penalised for being ambitious, and national policy should be amended to allow areas to go above and beyond national targets.

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

We agree with this approach.

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

We agree with this approach.

**Question 43: Do you agree with the changes proposed to footnote 54 of the existing National Planning Policy Framework? Do you have any views on specific wording for new footnote 62?**

Please see individual responses from CCN member councils.

**Question 44: Do you agree with our proposed new Paragraph 161 in the National Planning Policy Framework to give significant weight to proposals which allow the adaptation of existing buildings to improve their energy performance?**

We are fully supportive of this approach.

**Question 45: Do you agree with the proposed timeline for finalising local plans, minerals and waste plans and spatial development strategies being prepared under the current system? If no, what alternative timeline would you propose?**

We agree in principle with this approach but would urge the department to engage with Local Planning Authorities to understand whether this is realistic in terms of timescales, and to understand what additional resources may be required to achieve this.

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

We agree in principle with this approach but would urge the department to engage with Local Planning Authorities to understand whether this is realistic in terms of timescales, and to understand what additional resources may be required to achieve this.

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

We agree with this approach.

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

We agree with this approach.

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

As we set out within our response to the Planning for the Future White Paper, CCN members can see the merits of a streamlined approach to development management policies but believe a completely streamlined, national approach may not be agile enough to respond to distinct local issues. Development management policies allow authorities to assess proposals in line with their vision for an area, and in relation to the local context, so we believe that local discretion is vital.

We believe Local Plans are the best vehicle to shape local place-making. Nationally set development management policies could be used as a starting point, but local planning authorities should be able to implement alternative policies where it would better suit their

plans. Giving local authorities discretion will also help these policies to stay relevant within an ever-changing policy context.

We urge the department to consider individual responses from CCN members and would also request further engagement with planning authorities before any national development management policies are taken forward.

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

Please see individual responses from CCN member councils.

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

Please see individual responses from CCN member councils.

**Question 52: Are there other issues which apply across all or most of England that you think should be considered as possible options for National Development Management Policies?**

As above, we believe Local Plans are the best vehicle to shape local place-making. Nationally set development management policies could be used as a starting point, but local planning authorities should be able to implement alternative policies where it would better suit their plans.

**Question 53: What, if any, planning policies do you think could be included in a new Framework to help achieve the 12 levelling up missions in the Levelling Up White Paper?**

Planning policy will have a key role in ensuring that levelling-up ambitions can be delivered but will need to be agile allowing areas to respond to their differing and unique circumstances. Some areas are under intense pressure to accommodate growth, despite certain constraints, whereas others will be using the planning system to encourage and attract growth and development activity.

Whatever issues are trying to be overcome, an integrated approach to planning will be vital if the Government is to achieve its ambition of levelling-up the country. This requires a system that allows areas to consider the location of housing; the infrastructure to support it, including public transport, schools, and health centres; how development can help to support and grow employment and skills in a place; how development can support climate change and net zero goals; and how development can support improved environmental outcomes including biodiversity net gain and local nature recovery.

We believe that the planning system as it stands is unequipped to do this, and a much stronger approach to strategic planning is required, as we set out at our response to Question 15. In our view, this would need to be at a scale larger than individual planning authorities and would be best achieved at the county scale providing a larger canvass to plan across. Having a strong vision set at this level would have a variety of benefits including:

- Giving authorities the opportunity to discuss broad locations for housing, which may be particularly useful where certain areas have constraints that may mean their housing targets can't be delivered.

- Joining up locations for development with other strategic issues such as major infrastructure delivery, transport and climate change.
- Speeding up local plans due to an agreed vision for an area being set.
- A forum to bridge national policy objectives with sub-regional local delivery.

Government could also do more to link devolution and planning, recognising the role that good planning plays in growth. CCN would therefore like to see the devolution framework amended to include strategic planning as a power that can be devolved. CCN has previously set out a suggested governance model for such an approach and would be willing to engage with the department further on this.

**Question 54: How do you think the Framework could better support development that will drive economic growth and productivity in every part of the country, in support of the levelling up agenda?**

Please see response to questions 53 and 15 above.

**Question 55: Do you think that the government could go further in national policy, to increase development on brownfield land within city and town centres, with a view to facilitating gentle densification of our urban cores?**

Please see individual responses from CCN member councils.

**Question 56: Do you think that the government should bring forward proposals to update the Framework as part of next year's wider review to place more emphasis on making sure that women, girls and other vulnerable groups feel safe in our public spaces, including for example policies on lighting/street lighting?**

We very much support this approach.

**Question 57: Are there any specific approaches or examples of best practice which you think we should consider to improve the way that national planning policy is presented and accessed?**

CCN is supportive of improving the way that national planning policy is presented and accessed.

**Question 58: We continue to keep the impacts of these proposals under review and would be grateful for your comments on any potential impacts that might arise under the Public Sector Equality Duty as a result of the proposals in this document.**

Please see individual responses from CCN member councils.