

## The Heritage Alliance Summary

### Levelling Up & Regeneration Bill: Reforms to national planning policy consultation

This consultation from Government seeks views on their proposed approach to updating the National Planning Policy Framework (NPPF). They are also seeking views on their prepared approach to preparing National Development Management Policies, how they might develop policy to support levelling up, and how national planning policy is currently accessed by users.

In the preamble, Government makes it clear that that there will be subsequent reviews of planning, following the implementation of the proposals in the Levelling up and Regeneration Bill once its reaches Royal Assent.

As planning is a devolved matter, this consultation applies to England only. The deadline for responses is **2<sup>nd</sup> March**. You can read the full consultation document [here](#), and the NPPF draft text with track changes [here](#).

In this consultation, Government is mostly focused on ‘building the right houses in the right places’ by making changes to:

- make clear how housing figures should be derived and applied so that communities can respond to local circumstances;
- address issues in the operation of the housing delivery and land supply tests;
- tackle problems of slow build out;
- encourage local planning authorities to support the role of community-led groups in delivering affordable housing on exception sites;
- set clearer expectations around planning for older peoples’ housing;
- promote more beautiful homes, including through gentle density;
- make sure that food security considerations are factored into planning decisions that affect farm land;
- and enable new methods for demonstrating local support for onshore wind development.

This summary will first go through the draft NPPF, and then the questions from the consultation.

## The Draft NPPF

The draft NPPF has been published alongside the consultation, with tracked changes so the suggested amendments to the NPPF are easy to identify.

For the heritage sector, the redrafted NPPF seems to hold less cause for concern than we might have thought. There are no proposed changes to Chapter 16, the heritage chapter, nor are there any proposed changes to definitions and footnotes mentioning heritage and the historic environment.

The key addition to the text for heritage is the new paragraph 161, which if kept would mean that 'significant weight should be given to the need to support energy efficiency improvements through the adaptation of existing buildings, particularly large non-domestic buildings, to improve their energy performance (including through installation of heat pumps and solar panels where these do not already benefit from permitted development rights).' It is important to note that 'Proposals affecting conservation areas and listed buildings should also take into account the policies set out in chapter 16 of this Framework'. It could be useful to think about whether 'take in to account' is the appropriate wording.

## The Consultation Questions

The full consultation has questions on the NPPF, as well as some other policy points which will be of interest to the heritage sector.

**National Development Management Policies (NDMPs)** are a key part of the Levelling Up and Regeneration Bill, (Part 3, Chapter 2). This consultation gives more detail which is missing from the Bill, especially around the interaction between NDMPs and local / neighbourhood plans, what topics might be appropriate for NDMPs, and which areas Government are initially thinking NDMPs would be suitable for.

NDMPs will be given the same weight in certain planning decisions as statutory plans and in some cases be material considerations for National Significant Infrastructure Projects. While there is mention of similar management policies in the NPPF, they do not have statutory status. Government is suggesting that the starting point for creating NDMPs would be these existing parts of the National Planning Policy Framework which apply to decision-making, and are also asking for views on other topics which might be added.

The policies themselves would, following passage of the Bill, be designated by direction of the Secretary of State. Before this could happen, full public consultation would take place on the draft policies, building on the responses to this consultation. Government suggests that the NDMPs would be published separately to the NPPF, and would fall within 3 broad categories:

1. Existing policies aimed at decision-making already provided within the National Planning Policy Framework, subject to these being reviewed on a case-by-case basis so that the rationale for their inclusion is clear;
2. Selective new additions to reflect new national priorities, for example net zero policies that it would be difficult to develop evidence to support at a district level, but which are nationally important.
3. Selective new additions to close 'gaps' where existing national policy is silent on planning considerations that regularly affect decision-making across the country (or significant parts of it).

Government also proposes that NDMPs would follow three principles:

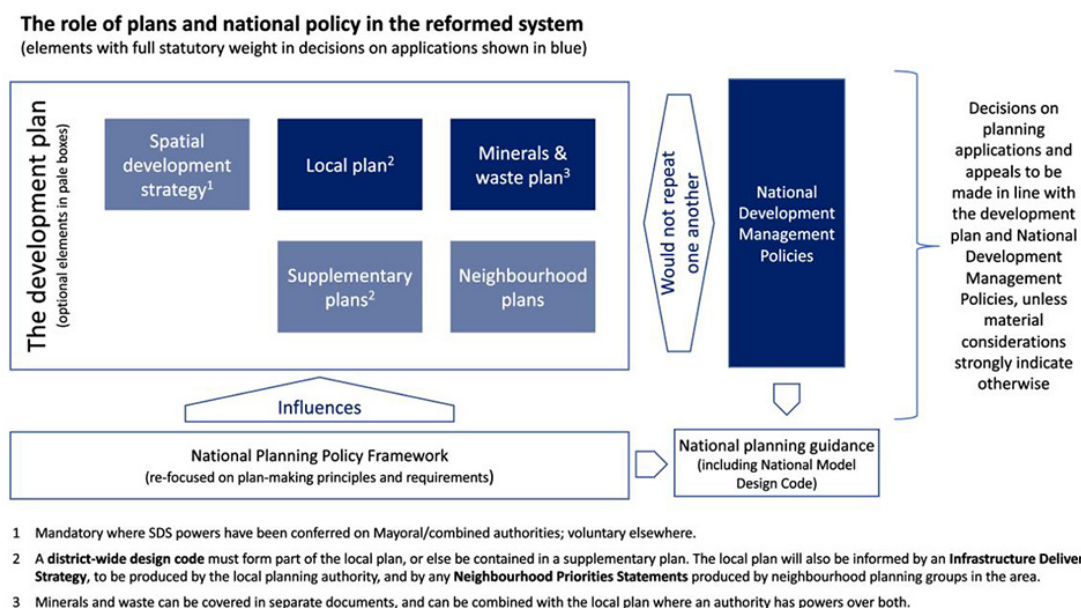
- Covering only matters that have a direct bearing on the determination of planning applications;
- Limited to key, nationally important issues commonly encountered in making decisions on planning applications across the country (or significant parts of the country); and
- solely addressing planning issues, in other words that concern the development and use of land. National Development Management Policies would not address subjects which are regulated through other legislation.

In the consultation document, Government has listed some examples of possible NDMPs which could be introduced; it is important to note that these are indicative and not an exhaustive list.

<b>Topic</b>	<b>Rationale for including</b>
Carbon reduction in new developments	A national policy on carbon measurement and reduction could set a baseline whilst enabling authorities to set further measures in their own plans based on parameters set in national policies, perhaps through an optional technical standard to allow for consistency and sound decision making. Chapter 7 of this prospectus outlines our thinking on how national policy could go further on the environment and climate change.
Allotments	A policy issue that has relevance across many authorities who seek to protect this land use against development. This may not require an individual National Development Management Policy but, instead, might be incorporated into a wider policy on protection of green spaces.

Topic	Rationale for including
Housing in town centres and built-up areas	National policy does not currently contain a policy explicitly encouraging or supporting the development of housing in built-up areas that are accessible and connected by sustainable transport modes. Local plans frequently contain this sort of policy, so creating a National Development Management Policy for this could help standardise expectations across the country and deliver more housing in suitable areas. This could be included in a general policy about housing on brownfield land, space above shops, or town centres (potentially building upon the paragraph 86(f) of the existing National Planning Policy Framework).

The below diagram illustrates how National Development Management Policies



would work with the different components of the development plan, providing a framework for informing and deciding planning applications.

### Consultation questions:

Q.49 Do you agree with the suggested scope and principles for guiding National Development Management Policies?

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

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

Q.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?

The **Asking for Beauty** chapter of the consultation picks up on ideas from the Building Better, Building Beautiful Consultation, as well as looking at 'building upwards', particularly mansard roof developments. It is proposed that a reference to mansard roofs as an appropriate form of upward extension would recognise their value in securing gentle densification where appropriate. 'All local planning authorities should take a positive approach towards well designed upward extension schemes, particularly mansard roofs.'

### Consultation questions:

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

Q.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?

The chapters on **Protecting the environment and tackling climate change** and **Onshore wind and energy efficiency** suggest some changes which Government believe will put environmental objectives at the centre of the National Planning Policy Framework, in tandem with targets for nature recovery which are being set under the Environment Act 2021. Notably for heritage, the chapters explore the way forward for biodiversity targets, carbon accounting and climate adaptation.

On carbon accounting, the Government is specifically consulting on 'ways of deploying a broad carbon assessment exist, including what they should measure, what evidence could underpin them such as Local Area Energy Plans, and how they may be used in a plan- making context or as a tool for assessing individual developments'. The responses that they receive on this point will be used as the basis for a future consultation on national planning policy.

It is good that Government has recognised the need to include embodied carbon in the planning framework, but it is a missed opportunity that Government have not referenced the carbon savings made by retrofitting existing buildings where possible and appropriate, rather than incentivising demolition through permitted development rights and 0% VAT rates for new build.

### Consultation questions:

Q.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?

Q.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?

Q.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

The chapter on **Enabling Levelling Up** could also be of interest to the heritage sector, as it asks a general question about enabling the levelling up missions. Pride in Place, one of the Levelling Up Missions, is the most relevant to heritage as it covers peoples access to culture and improving sense of community and local pride. You can read our summary of the Levelling up white paper [here](#).

### **Consultation question:**

Q.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?

There are a further two points which the heritage sector might find interesting. In the **Planning for Housing** chapter, Government proposes that the explicit requirement for local authority plans to be ‘justified’. In their own words:

‘We also want to make sure that plans are subject to proportionate assessment when they are examined, in particular to avoid local planning authorities and other parties having to produce very large amounts of evidence to show that the approach taken to meeting housing need is a reasonable one. To do so, we propose to simplify and amend the tests of ‘soundness’ through which plans are examined, so that they are no longer required to be ‘justified’. Instead, the examination would assess whether the local planning authority’s proposed target meets need so far as possible, takes into account other policies in the Framework, and will be effective and deliverable. Although authorities would still need to produce evidence to inform and explain their plan, and to satisfy requirements for environmental assessment, removing the explicit test that plans are ‘justified’ is intended to allow a proportionate approach to their examination, in light of these other evidential requirements. We intend to update national policy in spring 2023 to reflect this.’

### **Consultation questions:**

Q.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?

Q.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?

Finally, the consultation also asks about ways to improve developer accountability, as part of the '**Planning system for communities**' chapter. 'We are keen to explore whether past irresponsible planning behaviour should be taken into account when applying for planning permission. This would ensure bad developers cannot continue to play the planning system, helping to strengthen local communities' trust in it.' In this consultation, Government suggests two ways this could work, both of which will require primary legislation as well as additional public and sector consultation. The options presented are:

Option 1: making such behaviour a material consideration when local planning authorities determine planning applications so that any previous irresponsible behaviour can be taken into account alongside other planning considerations;

Option 2: allowing local planning authorities to decline to determine applications submitted by applicants who have a demonstrated track record of past irresponsible behaviour prior to the application being considered on its planning merits - similar to the amendment which we have already made to the Levelling Up and Regeneration Bill allowing local planning authorities to decline to determine new applications on sites where the build out of development has been too slow'.

### **Consultation questions:**

Q.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?

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