February 2016

Response:

National Planning Policy Framework

Consultation on proposed changes
Introduction

The National Housing Federation is the voice of affordable housing representing over a thousand housing associations across England. Our members provide two and a half million homes for more than five million people, and last year alone they built 50,000 new homes – over one in three of all new homes built.

Housing associations are the most successful public-private partnerships in England’s history, securing £76bn in private investment for new homes over the past thirty years. This has allowed them to build affordable homes in every part of the country and add £13.9bn to Britain’s economy every year\(^1\). They are ready to deliver more homes that will meet the needs of a variety of people – from those in real housing need to those who are looking to get on the first step of the housing ladder.

The planning system plays a vital role in the delivery of affordable housing, and the Federation welcomed the introduction of the NPPF and NPPG as having the potential to deliver a step-change towards a simpler and more positive planning system that supports housing and growth. We particularly welcomed the explicit requirement for local authorities to plan to meet objectively assessed housing need in their area, and the policy thrust to create inclusive and mixed communities, which we fear will be lost as a result of the proposed changes within the consultation.

Housing associations have the ambition to do even more and significantly ramp up the number of homes it builds. Overall, we believe that more detail is needed on how many of the policy changes would work in practice before we can assess their full impact on both our members, but also housing delivery in general.

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\(^1\) National Housing Federation, A Plan for Homes, 2015
1. **Do you have any comments or suggestions about the proposal to amend the definition of affordable housing in national planning policy to include a wide range of low cost homes?**

Housing associations share the Government’s commitment to increasing housing supply and opportunities for people to own their own home. Low cost home ownership, including Starter Homes, will have a key role to play in this, and we look forward to more details on Starter Homes in due course. They should not, however, crowd out desperately needed affordable homes to rent or distort local housing markets. We are therefore concerned that a change to the definition to include low cost home ownership products which do not include ‘provisions to remain at an affordable price for future eligible households, or for the subsidy to be recycled’ could come at the expense of the development of traditional affordable housing.

The Federation is concerned about the range of unintended consequences that the change in the definition to affordable housing would have. We believe that a fuller assessment of the impact that the change would have on the delivery of traditional affordable housing is required before any changes are formally made. These assessments should only be undertaken once the Housing & Planning Bill has finished its journey through Parliament, and when the underlying regulations are known.

We support innovation in providing homes, and indeed new home ownership products, but we believe that these new products should undergo thorough testing, potentially through a piloting phase (see Question 14).

The change in definition would allow ‘affordable’ products to come forward which are not subject to recycled subsidy or in perpetuity restrictions. This does not represent good value for money to the taxpayer, and will bring benefits to very few whilst offering no long-term benefits to communities. To improve the value for money Starter Homes offer, the Government could consider ways to recycle all or part of the discount, at the point of second sale, to be reinvested in affordable housing provision.

2. **Do you have any views on the implications of the proposed changes to the definition of affordable housing on people with protected characteristics as defined in the Equalities Act 2010? What evidence do you have on this matter?**

We have a number of concerns about the impact that the proposed change to the definition of affordable housing might have on people with protected characteristics under the Equality Act 2010, mainly that the definition change will result in a shortage of more traditional forms of affordable housing which benefit people from protected groups. This is because (based on the Government’s impact assessment of the Housing and Planning Bill) it is likely that the delivery of Starter Homes could crowd out more traditional forms of affordable rented properties.
The equalities impact assessment focuses on the impact of the delivery of Starter Homes. People in affordable housing who aspire to own their own home will only be able to access a Starter Home if they have adequate financial resource. People with protected characteristics on average have considerably lower incomes than those who do not, as demonstrated by the figures below:

- the average income of Black / Black British groups in social housing is £28,681 (Family Resources Survey), compared to the £50,000 needed to purchase a starter home (Shelter analysis)
- according to the ONS, in April 2012 the gender pay difference for all employees (full-time and part-time) based on median hourly earnings (excluding overtime) was 19.7%
- a 2008 report commissioned by the Equality and Human Rights Commission found that disabled men were paid on average 10.5% less than non-disabled men. Disabled women were paid 6.8% less than non-disabled women

The data above demonstrates that people with protected characteristics are significantly less likely than those without to have the requisite income to purchase a Starter Home. Affordable housing, as currently defined, ensures the equal treatment of people with protected characteristics as compared with people without those characteristics, because it is allocated on the basis of need.

The Government’s increased commitment to and support of shared ownership is welcome and should help address some of these concerns. Shared ownership is one of the most affordable routes into home ownership – purchasers have an average household income of c.£27,000 p.a. and research from Shelter and Resolution Foundation has shown that buying a 25% share of a shared ownership home is affordable to almost 90% of low-to-middle income households. As we discuss later in our response, it is important that the Government take steps to ensure that Starter Homes don’t displace homes for shared ownership, and other affordable housing, being delivered through section 106.

The broadening of the definition of affordable housing could therefore have a discriminatory impact on protected groups. If, as is argued elsewhere in this submission, the inclusion of Starter Homes within the definition leads to a decline in the delivery of other forms of affordable housing, people with protected characteristics may be left with no housing which meets their needs and vulnerabilities.

3. Do you agree with the Government’s definition of commuter hub? If not, what changes do you consider are required?

We agree with the definition.
4. Do you have any further suggestions for proposals to support higher density development around commuter hubs through the planning system?

We support increased densities around commuter hubs, but believe that this focus should be extended to all appropriate sites that could accommodate higher densities where this fits with local planning requirements. This means that consideration will need to be given to factors such as space standards, communal areas, parking, refuse strategies, privacy and overlooking, daylight and sunlight, and access to open space, all of which contribute to quality of life for residents.

Consideration should also be given to the service charges that would be passed on to residents as a result of higher density development as this could have an impact on its affordability for residents.

In securing higher density development, paragraphs 56-68 of the NPPF requiring good design are highly relevant, and any new policies should ensure that higher density development is well designed and suits the local context.

5. Do you agree that the Government should not introduce a minimum level of residential densities in national policy for areas around commuter hubs? If not, why not?

We agree that a minimum level is not required. This should be locally defined according to need and local context through the local plan policies.

6. Do you consider that national planning policy should provide greater policy support for new settlements in meeting development needs? If not, why not?

We support a policy which would provide greater support for new settlements. The Federation proposes that any new policy supporting new settlements should:

- Ensure that essential infrastructure is delivered so that they are sustainable. This will be possible to achieve through the new National Infrastructure Commission which intends to make recommendations that will co-ordinate the timing and delivery of new infrastructure with the delivery of new housing.
- Emphasise the importance of delivering new settlements which deliver a range of housing types and tenures to create mixed communities.
- Encourage local authorities to engage with a range of housebuilders, including housing associations, early on in the process to build relationships and ensure a mix of delivery partners.

At the local authority level, permission in principle could be a useful tool which would allow local authorities to outline their expectations of new settlements, where they could outline the...
density, housing mix, tenure mix and other permitted uses that would support the creation of a new settlement. This would provide a transparent way for local authorities to identify the requirements for a site, which can then be factored in to the price that is paid for land.

7. **Do you consider that it would be beneficial to strengthen policy on development of brownfield land for housing? If not, why not and are there any unintended impact that we should take into account?**

Strengthened policy for development on brownfield land is welcomed, and the government’s target for local authorities to have local development orders in place on 90% of brownfield sites suitable for housing should assist in this aim. However, this also needs to be accompanied with appropriate incentives and resources that will allow both local authorities, housing associations and developers to remEDIATE the land to allow it to come forward for development. This is more often than not the barrier which restricts viable development rather than unsupportive policy.

In October 2015, the Government announced a £10 million fund that local authorities could bid for in order to receive funding to remediate brownfield sites that would bring forward Starter Home development. So far, £7 million has been allocated to 17 local authorities which in total plan to deliver 471 units across 26 sites. In the context of the scale of government ambition for Starter Homes, this shows the financial burden that developers face when carrying out development on brownfield land. Incentives such as tax breaks, and delayed CIL payments could assist developers, and provide them with flexibility to develop sites, and use any surpluses to provide payments towards infrastructure.

According to our estimates there is enough brownfield land to accommodate one million homes (enough to meet housing demand for just over four years), so it is important that strengthening policy for brownfield development takes place alongside other policies and incentives to bring forward other land, suitable for housing, for development. It is important that local authorities consider all sites within their boundaries to maximise the amount of land within their plans and have an up-to-date, deliverable five year land supply.

8. **Do you consider that it would be beneficial to strengthen policy on development of small sites for housing? If not, why not? How could the change impact on the calculation of local planning authorities’ five year land supply?**

The Federation supports the strengthening of policy on small sites as they play an important role in the delivery of housing, and provide a supply of land for small and medium sized builders. The Federation has previously called for the local registers of land to be used for all sites suitable for housing, this could include small sites; this would provide a comprehensive list of all developable sites in a local authority area, and would be updated regularly.
9. Do you agree with the Government proposal to define a small site of less than 10 units? If not, what other definition do you consider is appropriate and why?

We don’t believe there is a need for a single definition of small site. Local authorities should be given the discretion and flexibility to define small sites locally through local plan policies – based on their local housing market, housing need and land values.

This is particularly important in the context of thresholds for affordable housing, as we believe that all developments, irrespective of size should make a contribution. This is fairer, simpler and stops the reported gaming of the old system where some developments were designed to bypass thresholds and avoid meeting affordable housing obligations. Again, the level and means of achieving contribution should be left to the discretion of local authorities who should set thresholds through the local plan process.

In rural areas, around 80% of sites are deemed to be small, demonstrating their important role in housing supply. Allowing local authorities to determine the definition locally will allow a variety of sites to be identified for land supply, increasing opportunities for much needed rural housing to come forward.

10. Do you consider that national planning policy should set out that local planning authorities should put in place a specific positive local policy for assessing applications for development on small sites not allocated in the Local Plan?

We would welcome this suggestion in principle in order to speed up development. However, many local authorities will have existing development management policies such as daylight/sunlight, traffic impact and density which will apply to all development, including small sites. Any new policies should be consistent with existing policies to guarantee high quality development that responds to its surroundings and does not cause undue harm to existing or future residents.

11. Views on how to best implement the housing delivery test

The baseline against which to monitor the delivery of new housing

Local authorities are already required, through the Planning and Compulsory Purchase Act 2004, to undertake monitoring exercises that set out to report the extent to which the policies set out in the local plan are being achieved.

A wholly new exercise is therefore unnecessary, but regular monitoring is vital to allow authorities to plan effectively and take into account any under supply in future plans. A new test
should be embedded in and aligned with the existing monitoring process to not add additional burden to local planning authorities.

We believe that housing delivery should be assessed against the targets set out in local plan policies which must be up to date, and based on objectively assessed need. Monitoring should also be broken down by starts, completions, permissions and tenure to ensure that objectively assessed needs are being met.

**What should constitute significant under-delivery, and over what time period?**

Significant under-delivery has not previously been defined in planning policy, but a definition would be useful to allow local authorities to take appropriate action when they are deemed to be ‘under-delivering’.

The NPPF recommends that local authorities add a 5% buffer to their five year land supply to ensure choice and competition in the market. Where there is a record of persistent under delivery, the NPPF recommends that authorities increase the buffer to 20%.

One method to express significant under-delivery would be to express it as a percentage below expected delivery. To make things as simple as possible, it would make sense for significant under-delivery to be directly linked to the buffer, and tiered accordingly. Therefore, where local authorities are 5% below their annual target, they should start adding a 20% buffer to the five year supply as currently recommended in the NPPF. Where they are 20% or more below their annual target, this could constitute significant under delivery. If the housing delivery test is to be undertaken annually, the position should be reviewed annually.

**What steps should be taken in response to significant under-delivery?**

Where targets are not being met, the Planning Inspectorate or the Secretary of State could assist the local authority in identifying alternative sites for housing, or in mobilising the duty to co-operate in order to establish whether neighbouring authorities can accommodate a proportion of housing growth. Permission in principle could be used as a tool to create more certainty and transparency for developers.

Bringing in housing associations as delivery partners could help to progress stalled sites. This would give private developers early and certain cash flow from the sale of a proportion of the housing to be developed, and would also result in truly mixed tenure developments which would be of benefit to the whole community.

When dealing with the backlog of housing that has accrued against the overall target, the Federation strongly advocates using the ‘Sedgefield’ approach, which front loads the provision of the backlog within the first five years of the plan period. This is opposed to the ‘Liverpool’ approach which spreads the backlog over the entire plan period.
How do you see this approach working when housing policies in the Local Plan are not up-to-date?

The test will not be useful unless local plan policies are up to date, and kept up to date. The Government’s intention for every local authority to have an up to date local plan in place by 2017 should be seen as an opportunity to revise housing targets.

12. What would be the impact of a housing delivery test on development activity?

The Federation believes that the housing delivery test is likely to have limited impact on development activity as it focuses on the targets set out within policy and will only go further when local authorities are not meeting targets. Even then, the focus will be on policy initiatives to encourage increased delivery rather than intervening with development activity directly. The key test will be ensuring that the policy initiatives identified result in increased activity where a local authority is underperforming.

13. What evidence would you suggest could be used to justify the retention of land for commercial or similar use? Should there be a fixed time limit on land retention for commercial use?

Paragraph 22 of the NPPF states that ‘planning policies should avoid the long term protection of sites allocated for employment use where there is no reasonable prospect of a site being used for that purpose’. The current approach to commercial land retention that local authorities adopt sees protection of such sites for two years, and where alternative uses are proposed, applicants must demonstrate that they have fully marketed the land for commercial use and no interest has been shown.

Whilst this appears to work well, we suggest that the retention of commercial land could relate to the outcome of the housing delivery test. Where a local authority is deemed to have an under-supply of housing, the period of time that commercial land is protected could be reduced to allow more land to come into the system.

14. Do you consider that the Starter Homes exception site policy should be extended to unviable or underused retail, leisure and non-residential institutional brownfield land?

The Federation supports this in principle, as it would be a way of ensuring that Starter Homes are genuinely additional to other homes coming forward. However, there should be an identified need for Starter Homes in order to bring land forward for such use. As referenced at question 7, certain financial incentives are likely to be required so that development is viable on brownfield sites.
In addition, serious thought would need to be given to the funding of infrastructure if Starter Homes are going to be exempt from CIL payments, as it is highly likely that such sites will not currently have sufficient supporting infrastructure. The current exception site policy allows a small number of market homes to be built on sites in order to make them commercially viable. On unviable land, this could be amended to allow the mix of homes required to make the scheme viable. Where homes for market sale are proposed, this would attract a CIL charge, and would therefore provide some funding towards infrastructure.

**Piloting**

Because Starter Homes are a relatively untested product the Federation recommends that a piloting period is undertaken before the policy is fully implemented in order to prevent unintended consequences. Given the lack of a detailed impact assessment, the piloting process would be useful to understand:

- Overall affordability of the product;
- Developer response to the product;
- Consumer demand for the product;
- It’s implication on the delivery of other tenures (affordable and market);
- It’s impact on the collection of developer contributions and therefore the delivery of infrastructure;
- The impact on rural areas.

The results of the piloting programme could then be used to form wider policy that would not have the potential unintended consequences detailed above.

15. Do you support the proposal to strengthen the starter homes exception site policy? If not, why not?

Strengthening the Starter Homes exception site policy as set out in the consultation will bring such applications more in line with prior approval and similar to the process that applicants would go through when exercising permitted development rights to convert offices into residential units. This will create a fast-track style of application for Starter Homes. We disagree with this approach, and believe that any application for Starter Homes should be treated like any other planning application. This will ensure that local authorities are given the opportunity to explore whether Starter Homes would meet objectively assessed need.
16. Should Starter Homes form a significant element of any housing component within mixed use developments and converted unlet commercial units?

As with all tenures, Starter Homes should only form a significant element within mixed use when there is an identified need. As we have previously stated, this need should be informed through the Strategic Housing Market Assessment and subsequent planning policy.

An alternative solution would be to require developers who are converting office space into residential units through the permitted development route to provide a certain percentage of the new units as Starter Homes. This would ensure the flexibility afforded by permitted development rights helps deliver on one of government’s key housing ambitions, whilst also ensuring that Starter Homes are additional, and would reduce pressure on conventional sites and allow them to deliver genuinely affordable homes.

17. Should rural exception sites be used to deliver Starter Homes in rural areas? If so, should local authorities have the flexibility to require local connection tests?

Rural exception sites seek to address the lack of available and affordable land in rural areas and are defined by the NPPF as ‘small sites used for affordable housing in perpetuity where sites would not normally be used for housing.’ They seek to address the needs of the local community by providing housing for either current residents, or for people who have a local connection.

Given the trend of house prices in rural areas, it is highly likely that Starter Homes will not be affordable to the majority of people who are in housing need in rural areas. Therefore, as a general rule, rural exception sites should not be used to deliver Starter Homes. They would also run contrary to the purpose of providing housing that is affordable in perpetuity, and would have serious consequences on the delivery of genuinely affordable housing in rural areas. It would also have the consequence of increasing the value of rural exception sites, and restricting land supply in rural areas. Continued delivery of shared ownership on rural exception sites may be a suitable alternative. It has been proven to work well in rural areas, offering a route into home ownership whilst also giving the opportunity to recycle subsidy to deliver new homes.

The NPPF does allow a small number of market homes to be delivered at the local authority’s discretion to enable the delivery of affordable units without grant funding. We therefore propose that Starter Homes could be used for this purpose, either instead of market housing or as part of a mix.
18. Are there any other policy approaches to delivering Starter Homes in rural areas that you would support?

The importance of planning to meet objectively assessed need remains vital across the country, whether urban or rural. Thus, as referenced throughout this section, Starter Homes should form part of a development where there is an identified need, and should not be the only element of affordable housing that is included on a site.

19. Should local communities have the opportunity to allocate sites for small scale Starter Home developments in their Green Belt through neighbourhood plans?

This is a welcome step, and builds upon the NPPF policy which states that green belt boundaries should be regularly reviewed. We believe that communities should be given the opportunity to allocate appropriate sites in the green belt for housing of a variety of tenures having regard to the Strategic Market Assessment, and considering local need. Providing solely Starter Homes on green belt sites runs the risk of creating isolated communities with no supporting infrastructure and runs contrary to the definition of sustainable development. Allowing a mix of housing, including housing for market sale, would mean that some contributions towards infrastructure are made.

Generally, a more flexible approach to green belt land is required. We do agree that development on brownfield land should be prioritised, however, this is not likely to address rural need and has the potential to price out young families in rural areas, and compromise the long-term sustainability of these areas.

20. Should planning policy be amended to allow redevelopment of brownfield sites for starter homes through a more flexible approach to assessing the impact on openness?

A more flexible approach to assessing impact on openness is welcome, and will assist in delivering homes on appropriate brownfield land in the green belt. However, as noted above, the policy should be worded in a way that supports the redevelopment of brownfield sites for all types of housing, with specific reference made to local need.

21. We would welcome your views on our proposed transitional arrangements.

We welcome the proposals to give local authorities a window of time to alter local plans in line with any change to the definition of affordable housing. It is concerning that the Government does not think it is necessary to give local authorities time to amend local plans in light of any of the other changes. These changes represent a major shift which, without an up to date local plan, could put authorities in a vulnerable situation with increased ‘planning by appeal’.
We therefore propose that it would be sensible to give local authorities the same 2017 deadline that is to be imposed on those local authorities without a local plan, with the option of preparing interim policies in the meantime. The result of this would be, at the arrival of the 2017 deadline, all local authorities should have a local plan in place which is up to date, and reflects the policy changes. This will ensure that housing targets are up-to-date, and that the planning system remains truly plan-led.

Consideration should also be given to the resources of both local authorities and the planning inspectorate when updating plans. Sufficient resources across all organisations will be vital to ensure that plans can be updated, and enough inspectors will be required to examine the plans to allow them to be adopted.

22. What are your views on the assumptions and data sources set out in this document to estimate the impact of the proposed changes? Is there any other evidence which you think we need to consider?

We have a number of concerns with the assumptions and data sources set out throughout the consultation document and the equalities statement. The first, which was previously mentioned at question 2, is the assumption that those who aspire to own their own homes will be able to afford it, and that this demonstrates a demand for Starter Homes. This does not give consideration to the range of incomes these people will receive, and does not link this with the ability to afford to buy a Starter Home. Instead, further impact assessments should be undertaken using either the Family Resources Survey or Labour Resources Survey, which are carried out by the Office of National Statistics. These detail the annual incomes for different protected groups and could be used as a basis for determining the affordability of Starter Homes on these groups.

Secondly, an inconsistent approach is used in relation to the additionality of Starter Homes. The Equalities Statement states as page 9 that ‘as these starter homes developments would lead to additional homes which otherwise would not have been built in the short to medium term, there should not be any adverse impact on Protected Groups as a result of a switch to starter homes’. However, at page 7, the statement notes that the change to the definition of affordable housing ‘could result in fewer numbers of existing affordable housing products being built by developers as part of their section 106 planning obligations on major development, if the new products are built instead.’ It is clear that much more in depth research and analysis is required in order to fully understand the affordability of Starter Homes, and the implications that the change to the definition of affordable housing will have on overall delivery, before the policy is changed. Failure to do so could result in a raft of unintended consequences as highlighted in earlier responses.
A final point is the claim at page 8 that ‘households which are eligible for affordable housing benefit from natural turnover in the existing affordable housing stock, with the assumption that housing need will be met by turnover in existing stock’, and that existing social stock is enough to satisfy demand. CORE data from 2014/15 shows that new build homes play a significant role in feeding turnover, particularly in London and the South East where unaffordability in the private rented sector acts as a block to turnover in existing social housing. A significant reduction in the number of homes built for social or affordable rent could reduce opportunities for natural turnover, potentially leaving tenants in properties that are not suitable for their needs. As a result, tenants will remain in these properties leaving no new opportunities for those who remain, or come into, housing need.

23. Have you any other views on the implications of our proposed changes to national planning policy on people with protected characteristics as defined in the Equalities Act 2010? What evidence do you have on this matter?

We have outlined our views on how the change to the definition of affordable housing will affect those with protected characteristics as defined in the Equalities Act 2010. The Federation believes it is vitally important, as referenced throughout this consultation, for local authorities to plan to meet their objectively assessed housing need. The release of additional land for housing is welcome, but the type of housing delivered should be left to the discretion of the local authority to allow them to meet the needs of their local communities. This is the only way to ensure that a variety of housing is delivered fulfilling a variety of needs, including those with protected characteristics.