

**Consultation on Documents Accompanying
National Planning Policy Framework and Proposed Responses**
Report by Planning Policy Officer

Summary:	This report informs the Committee of the Officers' proposed response to the consultation on the documents accompanying the NPPF and invites any comments or guidance the Committee may have.
Recommendation:	That the report be noted and the nature of the proposed response be endorsed.

1 Introduction

- 1.1 Appendix 1 shows selected planning policy consultation documents received by the Authority since the last Planning Committee meeting, together with the officer's proposed response.
- 1.2 The Committee's endorsement, comments or guidance are invited.

2 Financial Implications

- 2.1 There are no financial implications.

Background papers: None

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Date of report: 12 April 2018

Appendices: APPENDIX 1 – Schedule of Planning Policy Consultations received

- *Supporting Housing Delivery*
- *Planning Practice Guidance*
- *Housing Delivery Test*
- *Draft Planning Practice Guidance*

APPENDIX 1

ORGANISATION:	MHCLG
DOCUMENT:	Supporting housing delivery through developer contributions – 45 pages long.
LINK	https://www.gov.uk/government/consultations/supporting-housing-delivery-through-developer-contributions
DUE DATE:	10 May 2018
STATUS:	Government consultation on final draft
PROPOSED LEVEL:	Planning Committee endorsed
NOTES:	<p>Following the announcements at Autumn Budget 2017, the government is seeking views on a series of reforms to the existing system of developer contributions in the short term.</p> <p>A range of research including the research report accompanying this document and the CIL Review have identified the following consistent themes:</p> <ul style="list-style-type: none"> • The partial take-up of CIL has resulted in a complex patchwork of authorities charging and not charging CIL. Where CIL is charged, it is complex for local authorities to establish and revise rates. These can often be set at a lowest common denominator level; • Development is delayed by negotiations for section 106 planning obligations, which can be sought alongside CIL contributions; • Developers can seek to reduce previously agreed section 106 planning obligations on the grounds that they will make the development unviable. This renegotiation reduces accountability to local communities; • CIL is not responsive to changes in market conditions; • There is a lack of transparency in both CIL and section 106 planning obligations – people do not know where or when the money is spent; and • Developer contributions do not enable infrastructure that supports cross boundary planning. <p>Proposals address the following:</p> <ul style="list-style-type: none"> • Reducing complexity and increasing certainty • Swifter development • Increasing market responsiveness • Improving transparency and increasing accountability • Introducing a Strategic Infrastructure Tariff
COMMENTARY:	<p>In relation to the Broads Authority, we do not charge CIL because of our small objectively assessed need and small numbers of annual completions – to commission a consultant to investigate CIL, pay for the examination of the CIL and then to pay for the administration of collecting and spending the Levy would be disproportionate to the funding raised.</p> <p>Of particular importance in this consultation document is the notion of removing the pooling restriction on S106 agreements. The Government proposes to allow local planning authorities to pool section 106 planning obligations in three distinct circumstances:</p> <p>a) Where the local authority is charging CIL;</p>

	<p>b) Where it would not be feasible for the authority to adopt CIL in addition to securing the necessary developer contributions through section 106; or</p> <p>c) Where significant development is planned on several large strategic sites.</p> <p>It is important to note that when setting out the above three categories in more detail, category b relates to house prices rather than the issue in the Broads relating to CIL not being feasible due to low number of housing being completed.</p>
PROPOSED RESPONSE:	<p>We request that the Broads Authority:</p> <ul style="list-style-type: none"> i) is included in exemptions to the pooling restrictions if National Parks are exempted or if this is not pursued (para 104); ii) is exempted to reflect the identified housing need for the plan period being so low as to make the calculation, examination and subsequent collecting of CIL not feasible on the basis of low housing numbers. <p>The statements in the document refer only to the National Parks rather than saying 'National Parks and the Broads Authority'. The Broads Authority is a nationally protected landscape, the same as National Parks. This needs to be rectified.</p> <p>The consultation refers to it being <i>feasible</i> to charge CIL, but only in relation to house prices and fails to consider the situation in areas like the Broads. In the Broads, housing need and annual housing completions are small and the cost of commissioning a consultant to help come up with CIL in the first place, the cost of examination and then cost of administering the change is disproportionate to the income that will be generated. In the Broads, the OAN is 287 which averages at 13 a year for the plan period to 2036. We would therefore argue that 'feasible' needs to reflect the OAN of an area and the annual average.</p> <p>As such, we request that the Broads Authority:</p> <ul style="list-style-type: none"> i) is included in exemptions to the pooling restrictions if National Parks are exempted or if this is not pursued; ii) is exempted to reflect the identified housing need for the plan period being so low as to make the calculation, examination and subsequent collecting of CIL not feasible on the basis of low housing numbers. <p>It is not clear why Habitats Directive mitigation is not exempt from pooling restrictions. Such mitigation protects the integrity of designated sites whilst enabling housing delivery. It seems prudent to exempt Habitats Directive mitigation from the pooling restrictions.</p> <p>Finally, throughout all the documents, there are numerous terms used. MHCLG should check for consistency and intentions: local plans versus strategic plans versus development plans. Local planning authorities versus strategic plan making authorities versus plan making authorities versus local authorities.</p>
ORGANISATION:	MHCLG
DOCUMENT:	Draft Planning Practice Guidance for Viability -13 pages long.
LINK	https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/685291/Draft_viability_guidance.pdf
DUE DATE:	10 May 2018

STATUS:	Draft – not specifically out for consultation itself.
PROPOSED LEVEL:	Planning Committee endorsed
NOTES:	<p>Viability assessment is a process of assessing whether a site is financially viable, by looking at whether the value generated by a development is more than the cost of developing it.</p> <p>This document is effectively draft NPPG text, linked to the revised NPPF.</p> <p>One of the main topics covered is: <i>Where proposals for development accord with all the relevant policies in an up-to-date development plan no viability assessment should be required to accompany the application. Plans should however set out circumstances in which viability assessment at the decision making stage may be required.</i></p>
PROPOSED RESPONSE:	Local Plan viability assessments are strategic and based on site typologies and many assumptions. Schemes have site and scheme-specific issues and rather than assumptions, knowns and therefore the actual viability of a specific scheme may not be assessed specifically in the Local Plan viability assessment or might differ. This could lead to debates and disagreement at the application stage. It is suggested that the proposals in this document and the NPPG and NPPF are carefully considered for unintended consequences such as this.
ORGANISATION:	MHCLG
DOCUMENT:	Housing Delivery Test. Draft Measurement Rule Book – 5 pages long
LINK	https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/685292/Housing_Delivery_Test_Measurement_Rule_Book.pdf
DUE DATE:	10 May 2018
STATUS:	Draft – not specifically out for consultation itself.
PROPOSED LEVEL:	Planning Committee endorsed
NOTES:	<ol style="list-style-type: none"> 1. The Housing Delivery Test (HDT) is the annual measurement of housing delivery performance in a plan-making authority area (non-metropolitan districts, development corporations with plan making and decision taking powers, metropolitan boroughs and London boroughs). The HDT does not apply to National Park Authorities or to development corporations without full plan making and decision making powers. The consequences of failing the HDT are set out in the revised NPPF¹. 2. The HDT is the percentage measurement of the number of net homes delivered (Table 1) against the number of homes required in a plan-making authority area. $\text{Housing Delivery Test (\%)} = \frac{\text{Total net homes delivered over three year period}}{\text{Total number of homes required over three year period}}$
PROPOSED RESPONSE:	<p>We request that the following change is made to reflect what the Government intended to do: ‘The HDT does not apply to National Park Authorities and the Broads Authority or to development corporations without full plan making and decision making powers’.</p> <p>There appears to be a drafting error in the Housing Delivery Test (HDT) document.</p>

In the Government response to the Planning for the right homes in the right places consultation¹, the Government says that the HDT will not apply in National Park Authority and Broads Authority areas as shown below:

Question 5(c) response

There were 1,102 responses to this question, about half (45%) were neutral towards the proposal, while just over a third (39%) agreed with it. Points raised include:

- Some respondents were uncertain if the question related only to areas which do not align with local authority boundaries.
- There was support for using both existing and emerging plans for the purposes of monitoring, though there were reservations about using unexamined plan figures and concern that figures might not be up to date and sound.
- For developers and some other groups, the apportioning of figures *pro rata* was a popular solution.

Government response

For five year land supply monitoring, we intend to produce guidance to indicate that in a limited number of areas where local planning authorities do not align with local authority boundaries, local authorities would be able to use a locally identified figure as the basis of five year land supply monitoring. This guidance will also clarify that the Housing Delivery Test will not be applied in **National Park Authority and Broads Authority** areas due to their particular circumstances and data availability.

Guidance will set out in more detail the approach that should be taken in Urban Development Corporation and Mayoral Development Corporation areas.

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However in the Draft Measurement Rule Book says 'The HDT does not apply to National Park Authorities or to development corporations without full plan making and decision making powers'. That is to say that 'and the Broads Authority' has been missed out.

We request that the following change is made to reflect what the Government intended to do: 'The HDT does not apply to National Park Authorities **and the Broads Authority** or to development corporations without full plan making and decision making powers'. This need to be followed through to the NPPG as well.

It seems that MHCLG have taken on board the representation² from National Parks England on the Housing Delivery Test by exempting National Parks. However it seems that the Broads Authority has been forgotten. Here is an extract from the consultation response to 'Planning for the right homes in the right places' which clearly includes the Broads Authority.

¹ <https://www.gov.uk/government/consultations/planning-for-the-right-homes-in-the-right-places-consultation-proposals>

² http://www.nationalparksengland.org.uk/_data/assets/pdf_file/0009/1105002/National-Parks-England-response-to-Planning-for-the-right-homes-in-the-right-places-CLG-Consultation-Nov-2017.pdf

	<p><i>‘Secondly, we would again ask that the Housing Delivery Test is not applied to National Park Authorities and the Broads Authority. We have raised this issue in our response the Housing White Paper. We set out three reasons as to why the test is unsuitable in National Parks and the Broads under our response to question 5b. In short, the test risks penalising National Parks and the Broads for failing to deliver housing and economic growth. It does not recognise that national planning policy states that development should be restricted in accordance with the statutory framework for National Parks and the Broads. This focuses on the conservation and enhancement of the natural beauty, wildlife and cultural heritage and promoting opportunities for their enjoyment. We note and welcome the statement by the Secretary of State, Sajid Javid MP that “There will be places where constraints – for example, such as Areas of Outstanding Natural Beauty, national parks or others – mean there’s not enough space to meet local need” (CLG Written Ministerial Statement 14/09/17). The test, as currently set out, is also likely to be failed at some point in most National Parks and the Broads because of low and uneven levels of housing supply.’</i></p> <p>To elaborate on the uneven levels of housing supply:</p> <ul style="list-style-type: none"> • the Authority has an OAN of 287 dwellings until 2036 which is an average of 13 dwellings a year. For the 2016/17 monitoring period, 3 dwellings were delivered. • Through completions, permissions and allocations, the OAN is exceeded by around 12% in the plan period. The bulk of the OAN will be met through two larger sites of 76 and 120 dwellings in size. If we presume that one developer on one site can complete 30 dwellings a year, the first site will be done in around 2 years and the second site completed in 4 years. • So whilst the delivery of housing will look good in those years, outside of those years we may go down to low rates of delivery meaning we would fail the HDT, yet met our housing need for the plan period. <p>Finally, throughout all the documents, there are numerous terms used. MHCLG should check for consistency and intentions: local plans versus strategic plans versus development plans. Local planning authorities versus strategic plan making authorities versus plan making authorities versus local authorities.</p>
ORGANISATION:	MHCLG
DOCUMENT:	Draft Planning Practice Guidance -56 pages long.
LINK	https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/687239/Draft_planning_practice_guidance.pdf
DUE DATE:	10 May 2018
STATUS:	Draft – not specifically out for consultation itself.
PROPOSED LEVEL:	Planning Committee endorsed
NOTES:	<p>This draft NPPG text reflects the emerging amended NPPF and in particular:</p> <ul style="list-style-type: none"> • Viability • Housing Delivery • Local Housing Need Assessment • Neighbourhood Plans • Plan-making

	<ul style="list-style-type: none"> • Build to rent
<p>PROPOSED RESPONSE:</p>	<ul style="list-style-type: none"> • Page 15 – amend the title to say ‘...National Parks and the Broads..’ Later in that section (the second paragraph), it may be better to say ‘Broads’ rather than ‘Broads Authority’ as the sentence is talking about applying something to or in an area rather than to or in an Authority. • Page 18 – five year land supply buffer – no mention of the 5% that is in the NPPF... in this NPPG text, the 10% is mandatory but in the NPPF it seems optional (if a LPA wishes to...). This is very confusing and needs clarifying. • Page 19 – involvement of PINS in confirming five year land supply position. Will there be a template for us to complete? When will the deadline for submission of the statement be? How much will the assessment and recommendations by PINS cost the Authority? What timeline will PINS have to respond? What extra resources will PINS have to cope with this annual demand and how will this affect Local Plans in examination mode? • The document uses the term ‘annual land supply statement’ and ‘annual position statement’. Are these the same things? If so, use one term, if not, explain the difference between them. • Page 22 para starting ‘Although the...’ – as mentioned in the response to the Housing Delivery Test Document, you have made a mistake and need to add ‘...National Parks and the Broads Authority’ • Finally, throughout all the documents, there are numerous terms used. MHCLG should check for consistency and intentions: local plans versus strategic plans versus development plans. Local planning authorities versus strategic plan making authorities versus plan making authorities versus local authorities.