

Consultation response form

This is the response form for the consultation on the draft revised National Planning Policy Framework. If you are responding by email or in writing, please reply using this questionnaire pro-forma, which should be read alongside the consultation document. The comment boxes will expand as you type. Required fields are indicated with an asterisk (*)

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Are the views expressed on this consultation your own personal views or an official response from an organisation you represent?*

Organisational response

If you are responding on behalf of an organisation, please select the option which best describes your organisation. *

Trade association, interest group, voluntary or charitable organisation

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Campaign to Protect Rural England

Chapter 1: Introduction

Question 1

Do you have any comments on the text of Chapter 1?

CPRE NPPF response – summary

A response by the Campaign to Protect Rural England (CPRE) to the Ministry for Housing, Communities and Local Government consultation on the revised draft National Planning Policy Framework. CPRE campaigns for a beautiful and thriving countryside. We work to protect, promote and enhance our towns and countryside to make them better places to live, work and enjoy, and to ensure the countryside is protected for now and future generations.

This CPRE submission has been compiled following extensive consultation with our network of 43 local charities and eight regional groups around England, all of whom have first-hand experience of how the planning system operates at a local level.

Nature of the draft NPPF and its consultation:

Several of the consultation questions explicitly require respondents to focus on proposed changes to the NPPF not subject to previous consultations. This is problematic because it is hard for readers to track what changes have been made and what has previously been consulted upon. This is the first opportunity that readers have had to see all of the recent proposed changes in the round, and how they relate to each other. Finally, there was plenty wrong with the existing NPPF that could do with correcting. It is therefore essential that MHCLG considers and responds to all comments on this consultation, and not just comments on changes that have not previously been consulted upon.

We have taken the opportunity to comment on the published draft revisions to the online NPPG, where we think this would be helpful, alongside our responses to the NPPF consultation. This opportunity would have been greatly facilitated had the draft NPPG text been published with paragraph numbers.

A number of observers have noted that commitments made in footnotes appear to carry less weight than the main NPPF text. Officials have assured us that footnotes are used in the NPPF to avoid interruptions to the flow of text and should be given equal weight. We consider that this point should explicitly be made in the NPPF in the interest of clarity.

Throughout our response, we refer to text in the draft NPPF as its paragraph number with the prefix “DNPPF”.

CPRE’s detailed responses to the consultation questions may be best understood with reference to overarching observations on the NPPF as a whole, including a general comment on the purpose of planning, and five additional priority areas as follows.

A new purpose for planning

The new NPPF follows the old in defining the purpose of planning in terms of “the achievement of sustainable development”. But there is now a change in emphasis

such that in effect any development is seen as sustainable if it doesn't cause unnecessary harm, and harm is not unnecessary if it is the outcome of meeting needs for development, where "need" is loosely defined and little if any consideration is given to appreciation of the least harmful option.

Related to this is an apparent assumption that land is merely space waiting for development to happen on it, rather than a finite and precious resource that has inherent benefits for the nation's economic, social and environmental well-being, and which therefore requires careful and responsible management.

Planning is pointless if the outcomes it delivers would be little different from what would happen without a planning system. Identifying levels of and locations for development with reference to theoretical demand calculated on the basis of property prices will result in the construction of the types of homes that developers want to build in the places where landowners want to sell land. The NPPF – combined with other deregulatory measures such as increased permitted development rights - disempowers communities' discretion in demanding homes that people can afford, conservation of the things that they value, and infrastructure needed to support their communities into the future.

Recommendations:

- The purpose of planning in DNPPF 7 should be amended to read "...is to sustainably manage competing demands on the use of land and to contribute to the achievement of sustainable development."
- Reference should be made to the United Nations Sustainable Development Goals, to which the UK government is a signatory, with particular reference to Goal 11; NPPF policies should relate directly to the indicators under that Goal.
- More should be done to link the NPPF's overall intentions with those of the Industrial Strategy and other national strategies in order to promote a rebalancing of the economy and take advantage of opportunities for economic and housing growth in more affordable parts of the country.
- The NPPF's commitments to climate change adaptation and mitigation urgently need to be reviewed and strengthened, in particular to support the NPPF's positive approach to sustainable travel (not matched in other Government policies), and to take a firm stance against the harmful impacts of hydraulic fracturing (fracking) itself on the environment, and of its products on climate change.
- The policies listed in footnote 7 under the presumption in favour of sustainable development should be treated as critical resources that inherently benefit the nation, rather than merely as constraints on development.

Priority 1: support local democracy by adhering to neighbourhood and local plans

We welcome the addition of text in paragraph 12 of the draft NPPF, which clarifies the primacy of local and neighbourhood plan policies in determining planning applications, and the improved clarity on the relationship between strategic policies in local plans and more detailed policies in neighbourhood plans.

But while we welcome the direction of travel in parts of the NPPF, it still gives too much latitude to development and landowner interests over the needs and aspirations of communities. This does not mean that communities should be encouraged to reject development that meets needs and doesn't conflict with NPPF objectives such as the positive management of footnote 7 resources. However, communities that have planned positively and responsibly to meet development needs in a balance with the need to positively manage other

resources should be able to expect that their hard-won planning policies will be upheld in all but the most exceptional circumstances.

The role of planning ends with the identification of sites in plans and registers and the granting of planning permission (including permission in principle) sufficient to provide for a 5 year supply of housing land. If the construction industry fails to build homes on those consented sites, that is not a failure of the planning system or of the communities that have planned positively to meet their needs and manage their land. Communities should not be penalised for the failures of housebuilders.

Recommendations:

- The NPPF must be strengthened to give absolute clarity that development that does not conform to up-to-date local and neighbourhood plan policies will be rejected, unless the proposal in question is genuinely community led.
- Linked to this, the NPPF must be amended to reject the premise that policies for the sustainable management of land should be considered 'out-of-date' as a result either of arbitrary time periods or of the development industry's failure to build on existing consented sites.
- The proposed housing delivery test should be excised in its entirety from the NPPF. (Our detailed response includes comments on application of the test if, against all common sense, it is retained in the NPPF.)
- Policies in neighbourhood or detailed local plans should be given more protection in the face of newer, more strategic plans than an arbitrary period of grace; more strategic plans should be required to take account of existing local/neighbourhood plan aspirations unless there is no reasonable or sustainable alternative.
- 'Statements of common ground' between local authorities in a wider housing market area must be open to consultation, public examination and sustainability appraisal as they are prepared; if they are not subject to such scrutiny, they should only be considered as one option in local plan examinations, and should be set aside if their recommendations would lead to the need to compromise other objectives, such as the sustainable management of footnote 7 resources, where a more sustainable option is demonstrated to be available (including outside of the area under immediate consideration).

Priority 2: ensure realistic and high quality development based on genuine need not market demand

We welcome the government's recognition of the scale of the housing crisis and the strengthening of existing policies on achieving well-designed places.

The NPPF adds to communities' disenfranchisement by setting development targets in excess of what the construction industry is physically and economically able to deliver (even if it was in their pecuniary interests to do so) and then takes away communities' power when the housebuilders inevitably fail to deliver on what they have promised.

Communities are therefore required to permit developments that do not meet their reasonable expectations for affordability, quality, location and infrastructure provision.

The NPPF should focus on matters that are within local authorities' power to influence with their current resources and range of powers *through the planning system*: i.e. through the making of plans and the granting of planning permissions. Once sufficient sites have been identified for development through strategic, local and neighbourhood plan allocations and planning permissions (including permission in principle), with appropriate allowances for windfalls (including on permitted development sites), local planning authorities work is done. If

housebuilders still aren't bringing forward sufficient homes on those consented sites, a separate mechanism is required outside of the planning system.

Recommendations:

- The NPPF must require councils to focus on identifying housing need based on projected household growth and the needs of households that are currently inadequately housed in their area, not on arbitrary theoretical measures of housing demand based on house prices. Houses that are constructed will be expected to meet these needs.
- The NPPF should require councils to identify sufficient sites to meet that need, insofar as there are opportunities to do so without compromising other objectives of the NPPF, and only to exceed need (for growth or regeneration purposes) where there are opportunities to do so.
- If annual housing targets are to be set, these must not only reflect the opportunities for development without compromising other objectives of the NPPF, but also reflect the capacity of the construction industry to deliver them. Targets must not be set up to fail, and realistic expectations of delivery - confirmed by the housebuilding industry who will be held to account on this basis - must be a test of soundness for development plans.
- Councils should be held to account not on the overall numbers of homes built, but on whether homes meet the identified needs of local people, are affordable for those people to live in, meet appropriate standards for quality, accessibility and environmental performance, and create attractive and vibrant neighbourhoods.
- The so-called Entry Level Exceptions Site policy should be excised in its entirety from the NPPF; the policy avoids community involvement, meeting local need, and perpetuity of affordability. Communities are already expected to provide for the full range of housing types and tenures necessary to meet local need through local or neighbourhood plans on specific identified sites or through criteria-based policies. There is no place for this policy in a plan-led system.

Priority 3: deliver more affordable homes by closing legal loopholes that put developer profits first

We welcome the government's stated intention to crack down on legal loopholes which put the profits of developers above the needs of communities. However, it is vital that government policies match the strong rhetoric on developer accountability in the NPPF and accompanying consultation documents. In its current form, we anticipate that the revised NPPF may actually lead to *fewer* affordable homes being built in rural communities.

The Planning Practice Guidance (PPG) on viability requires a significant rethink if it is to achieve the government's intended outcome. We explored the damaging effects of viability assessments on affordable housing delivery in rural communities in our recent *Viable Villages* report with Shelter, and we fear that ambiguity in the current wording of the guidance will allow developers to keep gaming the system.

We are also concerned that the draft text prioritises sub-market home ownership options at the expense of social homes and affordable rented homes. This is apparent both in the revised definition of 'affordable housing' in the glossary and in the proposed introduction of an ill-thought-through policy on so-called 'Entry Level Exception Sites'.

Finally, the text does little to respond to the specific challenges faced by rural areas in delivering enough homes that local people can afford to live in. Until local authorities are empowered to take affordable housing contributions on *all* sites, including developments of fewer than 10 homes, rural communities will continue to suffer due to lack of affordable housing.

Recommendations:

- In addition to its effects on the plan-led system, the Entry Level Exception Sites policy should be scrapped because it would undermine the success of Rural Exception Sites in providing genuinely affordable homes in rural communities.
- Councils should be encouraged to set their own thresholds for affordable housing contributions and empowered to take contributions on small sites of fewer than 10 homes.
- The references to social housing in the existing NPPF should be reinstated in the text of the revised version. Social housing continues to play a vital role in catering to the needs of people on low incomes, for whom 80% of market value is simply not affordable.
- The National Planning Practice Guidance (NPPG) should be amended to provide clarity and ensure assessments of viability are carried out across the plan as a whole, and not for individual sites, and prevent local authorities using a lowest common denominator approach when setting affordable housing policies.
- The NPPG should not rely on the use of current, inflated land values to evaluate costs and look to provide a fair approach that balances landowner and developer profits with meeting affordable housing need.

Priority 4: adopt a true 'brownfield first' approach to development

We welcome the higher priority that the revised NPPF gives to the reuse of brownfield sites, the role of councils in bringing forward suitable brownfield land, and the importance of increased but appropriate density of development.

However, these warm words of encouragement do not go far enough in terms of providing the necessary imperative to ensure that suitable brownfield land and other regeneration opportunities are prioritised for development **before** the release of greenfield land. Nor does the NPPF encourage, as it should, the redistribution of demand for housing and other development away from areas where demand puts unnecessary pressure on open land resources and towards areas where there are more brownfield opportunities. The NPPF should not only respond to the Industrial Strategy and the aspirations of the Northern Powerhouse and Midlands Engine, but it should help to deliver the aims of these initiatives.

Unless the planning system offers positive restrictions of development on greenfield land, it will always be easier and more profitable to continue with squandering our increasingly precious open land resources, and suitable vacant and derelict brownfield sites will continue to blight our towns and cities and hold back their economic vitality.

Recommendations:

- The NPPF must include an effective brownfield first policy, operating through a sequential approach to site selection (similar to the town centres and retail sequential test), and the NPPF must specifically empower LPAs to reject greenfield applications when there is a suitable brownfield site available nearby.
- The NPPF should encourage LPAs to use brownfield registers proactively to identify all potential sites, including smaller sites, record their suitability for development (including for uses other than housing), inform windfall allowance calculations, and act as a pipeline to manage the activity of making suitable sites deliverable.
- The NPPF must equalise definitions of terms like 'deliverable' with the brownfield register regulations; in particular sites must be considered deliverable unless there is clear evidence that they are not, and not the other way around.
- In the Green Belt and elsewhere, brownfield sites that are remote or otherwise not well served by infrastructure such as public transport should not automatically be considered suitable for residential development (other uses may be more appropriate). This is also the case for sites of high environmental, heritage and amenity value.

- The definition of ‘previously developed land’ in the glossary needs to be revisited to address issues with its clarity and relevance.

Priority 5: protect our countryside for current and future generations, with robust maintenance of Green Belt policy, and strong protection for National Parks and AONBs

We welcome the new ‘exceptional circumstances’ test for altering Green Belt boundaries, which requires councils to demonstrate they have considered brownfield sites, increasing densities and other options with neighbouring councils before releasing land for development. We are also pleased to see stronger protection for Areas of Outstanding Natural Beauty (AONBs) and National Parks against large developments of market housing which is usually better located elsewhere.

However, the NPPF still appears to view the countryside as land waiting for development to happen, and its many resources that are critical for the nation’s social, economic and environmental well-being as troublesome constraints standing in the way of jobs and houses, even though there are many alternatives that can be exploited before needing to permanently destroy such resources.

Recommendations:

- Footnote 7 should be amended to include local wildlife and landscape resources, and productive farmland, in addition to the national wildlife and landscape resources, and local and national heritage resources already covered.
- Given the crucial recognition DNPPF 11.b.i that plans should not necessarily provide for objectively assessed needs in full in areas affected by footnote 7 resources, the policies and proposals in the rest of the NPPF should be amended so that support is explicitly given for reduced targets to reflect the positive management of these resources for future generations.
- The NPPF should include a clear statement that housing demand alone is not a sufficiently strong reason to justify the loss of or harm to open land resources, and that where land must be permanently sterilised through development, it is critical that it is developed in the most efficient way possible consistent with attractive and liveable place-making practice.
- The natural capital value and ecosystem services of all agricultural and other undeveloped land should be fully recognised in the NPPF and the strongest protection should be conferred on the highest quality BMV land as an essential and irreplaceable asset to sustain long-term food production
- The NPPF must clarify that planning protection for National Parks and Areas of Outstanding Natural Beauty results from these areas having ‘the highest status of protection’ as in the current policy, as not having that clarity could potentially open up debates about the relative weight of protection in these areas. There must be an improved, proactive approach to identifying and protecting other valued local landscapes.

Response to Q1: Do you have any comments on the text of Chapter 1?

Yes.

Tone set by NPPF introduction

The wording of the first sentence of paragraph 1 of the draft revised NPPF (DNPPF 1) must revert to that used in the existing NPPF. The NPPF ‘sets out the Government’s planning policies for England and how these **are expected to be applied**’. It is essential that the NPPF provides as much

clarity as is expected from local and neighbourhood plan policies (under DNPPF 16d). While it is accepted that 'should' can be used elsewhere in the NPPF, the introduction to the whole framework needs to be sufficiently muscular to set an appropriate tone to investors and decision makers. Whenever a change such as this is made, it provides an opportunity for lawyers to argue over the reason for the change in the courts - this change appears to signal that the government no longer 'expects' NPPF policies to carry as much weight or provide as much certainty as previously.

Relationship of NPPF to other areas of planning and development policy, and the absence of an overall vision for England's economic and spatial development

DNPPF 4 must make positive links between the national policy statements (NPSs) for major infrastructure and the government's overall approach to achieving sustainable development set out in the NPPF, i.e. require that NPSs accord with sustainable development principles.

The NPPF needs to begin with an overarching vision for the future development of the country that might be taken as guiding both the detailed policies in the NPPF and the NPSs. There are indications in other policy statements, such as the Industrial Strategy and investment decisions with regard to infrastructure, that government does have a hidden or unwritten vision of this kind. That vision should be published, subject to public scrutiny, and set out in the NPPF.

While many other statements of planning policy (such as written ministerial statements) issued since 2012 have been assimilated into the NPPF, the government's policies on traveller sites and waste planning continue to be considered separately. This failure must be addressed.

As a result of the above, the NPPF is not the complete statement of the government's policies on planning in England that it claims to be, leaving considerable scope for duplication and conflict with other statements, including those produced by departments other than MHCLG.

Tone set by former ministerial statement

CPRE is pleased to note that there is no evidence in the draft NPPF of a 'Ministerial foreword', as had been included in national planning policy for the first time with the 2012 NPPF. We strongly advise that the final draft of the NPPF is not accompanied with a political view of planning and development, in particular a colloquial definition of development as 'growth' in contradiction to the legal definition of the same. The text of the existing foreword has been used in some cases by developers seeking to set aside other policies in the actual NPPF or agreed development plan policies.

The correct place for the minister's personal view is in his/her speech announcing the launch of the framework, and this view should not be allowed to muddy the interpretation of carefully drafted planning policy.

Chapter 2: Achieving sustainable development

Question 2

Do you agree with the changes to the sustainable development objectives and the presumption in favour of sustainable development?

No

Please enter your comments here

No.

Definition of and approach to sustainable development

The proposed changes do not sufficiently explain Government policy on sustainable development, or how it will be implemented through the planning system.

The Government has stated that it is committed to the delivery [of the United Nations Sustainable Development Goals](#) (SDGs). Our view is that at least 8 of the 17 SDGs have a clear relevance to the UK planning system and the NPPF, in particular 11 (making cities and human settlements inclusive, safe, resilient and sustainable) and 13 (take urgent action to combat climate change and its impacts). The Office for National Statistics recently consulted (September 2017) on how to measure progress in achieving the SDGs.

We recommend that the final NPPF should refer to the SDGs and the United Nations New Urban Agenda, which is intended both to be the global standard for sustainable urban development and to provide guidance for achieving the SDGs in planning policy. The SDGs should guide the NPPF in terms of providing indicators for the performance of the policy, principally in relation to the rates of land use for development and prevention of urban sprawl, overall levels of affordable housing provision to meet social need, and levels of Government investment in infrastructure across England, which are currently heavily biased towards areas of high market demand. The final NPPF should also state that MHCLG will use the SDGs to guide its programme of planning statistics, and its work with other Government departments who are also committed to meeting other SDGs relevant to their work.

The proposed objectives in DNPPF 8 can easily follow on from this context, but CPRE recommends that these objectives will need further strengthening in line with the broad performance areas set out above. In particular they should relate directly to the UN's published Sustainable Development Goal [targets and indicators](#) that are of relevance to both MHCLG and the NPPF: our view is that 7 of the 10 SDG11 targets and 8 of the 15 indicators fall into this category. There should be a reference to addressing spatial inequalities in development across England under the economic objective; a reference to tackling poverty and social inequality under the social objective; and a reference to using agricultural land efficiently and prudently under the environmental objective. We would also recommend that MHCLG works with DCMS to produce a suitable indicator for heritage as the UN's SDG11 indicator on heritage is not directly relevant to the NPPF: we would suggest that a suitable indicator may be derived from registers of heritage assets at risk.

We do not believe that a stronger sustainable development policy in the NPPF should in itself require additional burdens on local authorities; rather our recommendation is intended to provide a clearer context for how MHCLG will communicate and implement its policies.

The 'presumption in favour of sustainable development' (DNPPF 11)

Operation of this presumption continues to fail to provide an appropriate strategic context for plan-making. DNPPF 11b explicitly recognises that areas constrained by designations listed in footnote 7 are not expected to plan to meet 'objectively assessed' needs in full, but no guidance is given on how estimates of need should be translated into housing requirements in local plans, other than (implicitly elsewhere in the NPPF) through unaccountable 'statements of common ground' between neighbouring authorities in a housing market area. The assessment of need is to

be based around the method set out in the Government's 2017 Right Homes in the Right Places consultation, but these district by district calculations will often result in need levels being artificially inflated due to constraints on supply in districts where most of the land is Green Belt, AONB or National Park. The assumption appears to be that if suitable unconstrained sites cannot be found, then development must happen on constrained sites in preference to redirecting growth to other areas with more opportunities and fewer constraints. CPRE contends that the reverse should take place - i.e. housing requirements should be reduced based on constraints to the supply of housing land.

No discouragement is given to councils with growth aspirations that exceed the unconstrained opportunities for growth in their areas. Growth, even where this is aspirational and goes beyond meeting local people's actual development needs, is therefore encouraged regardless of whether this will lead to harm to the policies of the NPPF that indicate growth should be restrained, which is perverse to say the least. Levels of development to be accommodated in areas constrained by footnote 7 policies should be restricted only to that which can be accommodated on unconstrained sites, or without harm to those policies: in other words the approach in such places should be based on actual opportunities rather than abstract indicators of theoretical demand.

Furthermore the wording of both DNPPF 11b.i. and DNPPF 11d.i. is unclear. For example, under plan-making, 11b.i. states that 'a strong reason' is provided 'for restricting the overall scale, type of distribution of development in the plan area', whereas the previous NPPF simply stated that the footnote 9 policies were among those that 'indicate development should be restricted'. CPRE has received assurances from MHCLG officials that the intention of both these paragraphs is intended to be that the policies in footnote 7 by definition are sufficient to provide the 'strong reason' or the 'clear reason' (why the different wording?) to make an exception to the presumption in each case. However, several independent observers we have spoken to consider that the proposed wording could be interpreted as meaning that decision-makers have to determine on a case-by-case basis whether the footnote 7 policies provide a 'strong' or 'clear' reason to set aside the presumption. This issue needs clarity to avoid misinterpretation and lengthy and costly debates in local plan examinations, planning appeals and the courts, to say nothing of irreversible damage to the interests that the footnote 7 policies are intended to protect.

CPRE is also concerned that the new wording of the presumption could serve to undermine protection for areas of countryside, heritage assets or other sites of environmental value that do not fall into one of the categories set out in draft footnote 7, even though they may be reasonably considered to merit protection in terms set out in the current NPPF and DNPPF 168, 182, etc. In particular, there should be a consistent approach to designations made via a local plan; draft footnote 7 list refers to designated heritage assets, which includes Conservation Areas, and also Local Green Space which are both designated by local councils. CPRE contends that footnote 7 should therefore also include other resources that detailed policies of the Framework seek to protect, including 'valued landscapes' (DNPPF 168a) and Local Wildlife Sites (DNPPF 172) .

The qualification in footnote 7 that it 'does not refer to policies in development plans' is unnecessary (since footnote 7 is only invoked with regard to 'policies in this Framework') and confusing (since development plan policies will exist pertaining to all of the sites, designations and resources to which the footnote refers). In addition it can be taken to imply that development plan policies should not be taken into account in applying the presumption in favour policy, which is surely unlawful. CPRE strongly request that the phrase 'It does not refer to policies in development plans' is deleted as it serves no practicable purpose.

CPRE recommends that the revised presumption should include references to the availability and provision of sufficient infrastructure (whether green infrastructure, transport, health, education

or other community infrastructure) as a key requirement of both planning and permitting new development. There is widespread concern that since 2012 many new housing developments have been deficient in this regard. In our view the robust approach to communications infrastructure taken at DNPPF 112 should be applied to infrastructure planning more widely.

Question 3

Do you agree that the core principles section should be deleted, given its content has been retained and moved to other appropriate parts of the Framework?

No

Please enter your comments here

No.

We believe that the framework should still contain a statement of core principles, either in Chapter 2 on Achieving Sustainable Development or in the Introduction. However, we do agree that the existing principles may have been too detailed and hence risked duplicating or conflicting with subsequent policy statements, and that the principles should be considerably edited to avoid this.

The current text of the draft NPPF suggests that the only purpose of the planning system is 'to contribute to the achievement of sustainable development' (DNPPF 7). A parallel and equally important purpose of the planning system is to balance competing demands on the use of land. Development is only half of the story and good development should also make the best use of land and existing infrastructure, protect and enhance the environment, and create places of the highest quality. **The purpose of planning in DNPPF 7 should be amended to read '...is to sustainably manage competing demands on the use of land and to contribute to the achievement of sustainable development.'**

The government may wish to consider a set of principles similar to those set out in proposed amendment 89LZA to the then Housing and Planning Bill 2016 on the purpose of planning, laid by Baroness Andrews and backed by a cross-sector coalition of 14 organisations, led by the Town and Country Planning Association.

A set of principles that CPRE could support, based on that amendment, might be as follows:

In order to achieve sustainable development and place-making, and sustainably manage competing demands on the use of land, planning should positively:

- **identify suitable land for development to meet needs in line with the economic, social and environmental objectives so as to improve the quality of life, well-being and health of people and the community;**
- **identify land that should remain undeveloped for its natural capital benefits, including social, economic or environmental benefits, food production, ecosystem services and enhancing health and quality of life through recreation;**
- **make the best use of land and existing infrastructure, protect and enhance the environment, and create places of the highest quality;**
- **contribute to the sustainable economic development of the community including provision of necessary infrastructure;**
- **contribute to the vibrant cultural and artistic development of the community;**
- **protect and enhance the historic environment and landscapes of cultural or natural significance;**
- **promote the enhancement and protection of biodiversity so as to achieve a net benefit for nature;**

- promote and protect the intrinsic character and beauty of the countryside;
- contribute to the mitigation of and adaptation to climate change in line with the objectives of the Climate Change Act 2008;
- promote high quality, high density design that protects the interests and amenities of neighbours and the character and distinctiveness of local areas;
- promote inclusive design that meets the needs of the maximum number of people including disabled and older people;
- ensure that decision-making is open, transparent, participative and accountable; and
- ensure, whenever possible, that assets arising from the development process are managed for the long-term interest of the community.

Question 4

Do you have any other comments on the text of Chapter 2, including the approach to providing additional certainty for neighbourhood plans in some circumstances?

Yes.

Applying up-to-date development plan policy (DNPPF 12-13)

CPRE welcomes attempts to clarify and strengthen the primacy of development plan (including neighbourhood plan) policies in the determination of planning applications. Such clarity is essential given recent court decisions which have confirmed that all those engaged in or affected by development proposals are justified in having an expectation that planning policies will be upheld. Permitting proposals that do not accord with up-to-date policy seriously undermines the credibility of the whole planning system and encourages further damaging speculative development activity.

While we welcome this text, it must be strengthened: 'not usually' sets a lower bar than the relevant legislation, fails to give enough emphasis to the plan-led system that ministers claim we have, and is not as strong as some wording used in legal judgments. We suggest deleting the word 'usually'. The word 'should' and the subsequent reference to material considerations in the context of section 38(6) gives sufficient flexibility for LPAs to take other factors into account.

In the interests of the overall integrity of the plan-led system, the policy would be improved by adding text that puts the power to depart from a development plan squarely with the community, with authority for this to be overruled in appeals limited to very specific circumstances, and advises LPAs considering departing from their plan to give reasons for approval, in line with the Farthingloe judgment.

Absolute clarity is essential on this point to reduce the number of cases particularly where neighbourhood plan policies are unjustifiably overruled (or simply ignored) by councils or planning inspectors, resulting in communities losing faith in the neighbourhood planning process. This point is to some extent made by the first sentence of DNPPF 13, although this could be clarified with original text such as **'Failing to take proper account of policies and proposals in neighbourhood plans in decisions made on planning applications and appeals can seriously undermine the credibility of this activity, undertaken largely by volunteers and approved through a popular referendum. Any decision departing from a development plan should not be taken lightly.'** The second sentence of DNPPF 13 does not relate well to this point, and should be moved to the beginning of DNPPF 14 (see also below).

We also consider that this paragraph, or DNPPF 12, should include reference to the increasing weight to be given to emerging local or neighbourhood plans, at the very least by reference to DNPPF 49.

Relationship between strategic policies and neighbourhood plans (DNPPF 13-14)

We welcome the intention behind improved clarity here on the relationship between strategic policies in local plans that neighbourhood plans must support, and development which falls outside these strategic policies, which neighbourhood plans may direct. We also welcome the emphasis in DNPPF 14 on the adverse impact of allowing development that conflicts with an up-to-date neighbourhood plan.

DNPPF 14 is however convoluted, especially with its reference to the application of DNPPF 75 which itself relates to the application of DNPPF 11d. The whole of this paragraph might better fit in Chapter 5. Similarly to our point above, the text, including footnote 9, also undermines legislation by stating that neighbourhood planning policies can have lessened weight after only 2 years. This is symptomatic of the unnecessary over-complication of the NPPF with arbitrary time thresholds applying to the relevance of plan policies.

CPRE recommends that the paragraph 14 exemption for neighbourhood plans should generally apply until superseded by alterations to policies in the relevant strategic plan(s). However, see our point below on the chain of conformity: strategic policies should be required to take account of existing neighbourhood plans. Local and neighbourhood plans should be seen as being a seamless representation of the communities' needs and aspirations at all levels, and should be prepared in a spirit of cooperation, not antagonism.

We are concerned that in local plan areas where housing delivery has been significantly lower than the level required by the local housing target, neighbourhood areas may have higher housing targets forced on them than those in their up-to-date neighbourhood plan. We would welcome some reassurance from the government that neighbourhood areas which are meeting their own housing need will not be compelled to deliver more houses than allocated in their neighbourhood plan, because of under-delivery elsewhere in the local authority area, and that LPA's will be empowered to say no to bad development where the community has positively prepared a neighbourhood plan.

A consistent weakness of planning systems for several decades has always been that more 'strategic' or more 'up-to-date' policies and proposals may always be seen to trump long-standing (but effective) or detailed policies, forcing the lower-tier authority into the need to review or update its detailed policies, regardless of their value and relevance. This was an issue with local plans under structure plans, and with local plans under regional plans, and is now an issue with neighbourhood plans under local and strategic plans, and with local plans under wider strategic plans (and non-statutory frameworks); an issue that is felt all the more strongly with neighbourhood plans prepared largely by volunteers and approved through a local referendum. This weakness is one of the (many) reasons why plans often fail to get adopted - because they are perpetually waiting for a higher-level plan to be approved to direct their strategy - and why many community groups are put off producing a positive neighbourhood plan.

More needs to be done to ensure that where a lower-tier plan has been prepared - especially where it is positive about development, including housing development (but not limited to such cases) - then the starting point for any new or revised higher-tier plan covering the area should be to at least reflect, if not incorporate, the aspirations of the existing plan into its overall strategy. The objective should always be to avoid the automatic need for the lower-tier plan to be reviewed (or, worse, for it to simply be annulled), unless there is no reasonably practicable

alternative, and this should be a key test of soundness at the examination of higher tier plans. In the rare circumstances, where a higher-tier plan does automatically result in the need to review a lower-tier plan, perhaps there could be a mechanism through which the review could be expedited and supported.

Chapter 3: Plan-making

Question 5

Do you agree with the further changes proposed to the tests of soundness, and to the other changes of policy in this chapter that have not already been consulted on?

No

Please enter your comments here

No. Please note that it is close to impossible to separate comments on 'other changes in this chapter that have not already been consulted on' from comments on changes that have been consulted on, but still require reworking, and unchanged parts from the existing NPPF that require change but may or may not have been consulted upon. Our response to Q5 therefore focuses on the **tests of soundness**, and other matters dealt with under Q6.

Tests of soundness (DNPPF 35-38)

CPRE disagrees with some elements of the proposed new tests of soundness, particularly, under 'positively prepared', (DNPPF 36a) the requirement for a 'strategy which will as a minimum meet as much as possible of the area's objectively assessed needs'. This contradicts the draft presumption in favour of sustainable development (DNPPF 11) which states that the application of policies that protect areas or assets of particular importance can provide a strong reason for not taking such an approach. The test should be reworded and clearer and more consistent guidance given for situations where protective policies require development to be restricted (see also our response to Q2 above).

CPRE agrees with that part of the proposed new wording of the 'effective' test (DNPPF 36c) which places an expectation for cross-boundary matters to be 'dealt with rather than deferred'. A major concern with the working of the current duty to co-operate has been that it has been insufficient in getting local authorities to agree such matters. However, we consider that cross-boundary matters must be capable of being considered as 'dealt with' in circumstances where, as a result of the application of policies such as those included in footnote 7, the LPAs concerned have concluded that the sustainable strategy for their area is to not plan to meet objectively assessed need in full. **Instead there should be a mechanism through which unmet need is fed into a national 'pot' for offsetting in areas that are planning to exceed their objectively assessed need.**

We strongly support the soundness requirement for plans to be 'deliverable over the plan period', and the relationship between this objective and DNPPF 16b. However, this is not currently enforced at examination, and stronger wording is required here. In addition, the rest of the revised NPPF encourages, and sometimes forces, LPAs to set development targets that are not deliverable, let alone sustainable. Many LPAs set targets for development (whether for housing numbers or economic growth) for which there is no evidence either of the willingness/capacity of

the construction industry to deliver, or of the feasibility of achieving intended levels of economic growth. These are often increased by the conclusions of planning inspectors or by the arbitrary 'buffers' demanded by the NPPF. **Setting targets for development beyond realistic expectations of delivery inevitably fails this soundness test.** More importantly, when targets are missed and plans declared 'out-of-date', the result is speculative development proposals and unsustainable development - the wrong development in the wrong places - the very opposite of the intention of the NPPF. **Realistic expectations of delivery must be rigorously enforced when testing the soundness of plans:** targets must not be set that exceed such expectations, and claims made by the development industry as to their deliverability should be subject to contractual obligations with penalties for the developers (and only for the local authority where they have unreasonably blocked planned development) should targets be missed.

Related to this, planning policies can do much to stimulate economic recovery in lower-performing areas where there are sustainable opportunities, such as suitable brownfield sites and scope to develop public transport infrastructure. This is an aspiration of both the Northern Powerhouse and Midlands Engine. But this will not be achieved without restraint being applied in highly profitable but overheating and overcrowded parts of the wider south-east. The deliverability of such aspirations is dependent upon the articulation of a clear vision for the future economic and spatial growth of the country. See also our response to Q1 and our suggestion earlier in this question that unmet need in constrained areas should be put into a national 'pot' and offset against areas that plan to exceed their assessed need.

The tests must also include reference to taking account of existing policies and proposals in made/adopted or emerging lower-tier local and neighbourhood plans (see also response to Q4).

Question 6

Do you have any other comments on the text of chapter 3?

Yes.

Plan-making (DNPPF 15-16)

CPRE supports this section and the clarity with which it is presented. We have two observations on its implementation.

We strongly support DNPPF 16b - see also our response on the tests of soundness under Q5. DNPPF 16c refers to 'statutory consultees', a phrase which has no meaning in plan-making, was not used in the existing NPPF, and requires definition in the NPPF glossary. Consultees for the purposes of plan-making are prescribed in regulation 18 of the local planning regulations (2012), which is currently being considered for repeal. Consultation is only compulsory where the LPA consider each body is 'appropriate' etc. It is not clear from the definitions given in regulation 2 whether town and parish councils or neighbourhood planning forums are intended to be either specific or general consultation bodies, nor is it clear that such councils/forums are intended to be included in the list in DNPPF 16c. We therefore request that the term 'statutory consultees' is defined in the glossary with reference to the local plan regulations, and that 'town and parish councils and neighbourhood forums' is added to DNPPF 16c.

We strongly support DNPPF 16d, which is strengthened in comparison with its forerunner in para 154 of the existing NPPF. Development plan policies must be clear and unambiguous for the reasons stated and to give certainty to communities and to potential investors. Unfortunately, this requirement is directly contradicted by several requirements in other parts of the NPPF (including the presumption in favour of speculative development - DNPPF 11) for plans and policies to be 'flexible' enough to respond to changing circumstances. In addition to contradicting DNPPF 16d, making plans and policies flexible delays plan-making by adding unnecessary complexity to their

preparation. It is absolutely unnecessary for plan policies to exhibit flexibility to account for unforeseen circumstances when (i) Section 38(6) of the Act allows for decisions to account for other material considerations, and (ii) plans are intended to be regularly reviewed. We recommend that all references to plans and policies being flexible are excised from the NPPF and NPPG.

The plan-making framework (DNPPF 17-19)

We welcome the attention paid to ensuring consistent referencing to 'plans' throughout the revised NPPF to ensure application of policy equally to local plans, neighbourhood plans and statutory spatial development strategies, where appropriate. The term 'plan' on its own might be taken as being ambiguous and possibly referring to non-statutory plans or statutory plans that are not part of the development plan. We consider it to be important, given the primacy that the planning acts give to making decisions in accordance with the 'development plan' that the NPPF uses the term 'development plan' when it means 'development plan', unless the context is clear. This principle is generally followed in the current draft (for example at DNPPF 144f, 152a, 160, etc.), but not consistently (e.g. DNPPF 87, 90, 138d, etc.). This is important in order to avoid giving the impression that decisions must be made in accordance with other types of plans that are not statutory development plans (including various types of 'plans' referred to in the NPPF), although these may be material considerations. Non-statutory plans, especially where these have not benefited from consultation, examination and/or sustainability appraisal, and which are not required to conform to the principles of the NPPF, should not be privileged over development plans that have benefitted from these. For example, CPRE Leicestershire has raised strong concerns about the formulation of a 'strategic plan' for the county with a strategy based largely on the building of a major new road to the east of Leicester with highly ambitious levels of major greenfield housing development planned around it. Such a strategy should be properly tested against options such as concentrating development on urban brownfield sites that can be well served by public transport. But to our knowledge there is no intention to submit this 'strategic plan' to independent examination.

Strategic policies (DNPPF 20-25)

A failure of the planning system in recent years has been the tendency for national policy to set an arbitrary time period or event after which policies may be declared out-of-date. This is counter-productive and one of the many centrally-driven policy agendas that has resulted in the low coverage of 'up-to-date' development plan policies. Many types of planning policy or proposal are non-time-limited - e.g. those relating to design, protection of heritage assets and landscape features, etc. It is perfectly possible for a plan to identify a framework of specific proposals and criteria-based policies against which proposals for housing development could be determined for decades without any recourse to update the plan.

We fear that the new requirement on planning authorities to review plans 'at least' every 5 years will prove unnecessary and potentially burdensome. We recognise that the duty to 'review' is not intended to imply a duty to 'update' plans (although this could be made clearer in the DNPPF), but even the activity of reviewing a plan - or defending it from arbitrary requests to review policies - may be burdensome.

Burdens will not just fall on the local authorities concerned, but also the wider local community, including investors and developers, as well as other consultees, to say nothing of the volunteers that will be required suddenly to review their neighbourhood plans 'at least every five years' as a result. This approach implies an arbitrary 5 year period after which policies need to be evaluated for their continued relevance (and if that process has not been undertaken, the policies automatically declared out of date). We recommend that the duty to keep plan policies up-to-date be complied with through annual monitoring processes and updating specific policies and proposals (i.e. not necessitating a full-scale re-drafting of the entire plan) as and when it is necessary to do so, such as a change in national policy or other change in the relevant context. In other words, policies should be relevant by default, unless circumstances can be shown to have

changed sufficiently to require an update. Such a position would remove many burdens on local planning authorities, communities, consultees and developers engaging in the planning process. This will also need some changes to the implementation arrangements, specifically DNPPF 208 - see our response to Question 40 below.

In particular, the introduction of new national policy or legislation, or new strategic planning policy at a higher-tier, should not automatically result in local planning authorities and neighbourhood planning bodies stopping work on emerging plans until things have settled down, or feeling the need to completely rewrite their existing plans.

Established, effective policies that have been subject to public scrutiny, sustainability appraisal, referendum and/or public examination should not be declared 'out-of-date' just because an arbitrary time period has elapsed, new but unrelated higher-tier policy has emerged, or because a target relating to one element of the overall strategy has been missed.

Maintaining effective cooperation (DNPPF 26-29)

While CPRE recognises that the existing duty to cooperate is not functioning as intended, we are concerned that the proposed 'statements of common ground', prepared behind closed doors, could lead to a narrowing of options, especially regarding development locations, that should be subject to public consultation and sustainability appraisal.

We recognise the mention of infrastructure needs in DNPPF 28, but consider that this section could draw more attention to cooperating on strategic matters other than housing; this could perhaps be achieved simply by amending DNPPF 26 to include "...on all strategic matters (see paragraph 20) that cross administrative boundaries".

Planning Practice Guidance and PINS' advice to local examination inspectors should be clear that public scrutiny and sustainability appraisal activities on local plans operating within a 'statement of common ground' may result in outcomes that require development distributions in the 'statement' to be reconsidered. In other words, 'statements of common ground' must always be seen as provisional until their outcomes are either tested through subsequent local plan processes, or the statements themselves are produced and approved in effect as a joint local development document.

CPRE has further concerns about the operation of the statements of common ground being related to housing market areas as a result of the subjective and imperfect definition of such areas (e.g. in London and the South East, HMAs are really sub-areas of a much wider HMA, and in many places the HMAs could be defined in several different ways). Attempts to distribute development within areas of cooperation would always be facilitated with the opportunity for need that may be unmet in one area to be put into a national 'pot' and offset against growth above identified need in other areas.

Local policies (DNPPF 30-33)

CPRE shares the concerns expressed by others such as the Town and Country Planning Association that the definition of strategic policies in the DNPPF appears to suggest that 'non-strategic' or local policies are in some way optional and that this might give encouragement to third parties to excise such policies from development plans through public examination processes and reduce the attention to be paid to such policies in planning decisions. We understand that this is not the intention of the policy, and suggest that wording of this section is tightened up as a matter of urgency to demonstrate government's commitment to the essential place-making role of development plans.

Assessing and examining plans (DNPPF 35)

We recommend that the draft text here on the mitigation hierarchy should be changed so that mitigation measures should be proposed where there are unavoidable adverse impacts (as in the current NPPF), not just when there are unavoidable *significant* adverse impacts.

Chapter 4: Decision-making

Question 7

The revised draft Framework expects all viability assessments to be made publicly available. Are there any circumstances where this would be problematic?

Not sure

Please enter your comments here

CPRE welcomes the requirement in DNPPF 58 for viability assessments to be made publicly available: local communities have a right to know why it is asserted that a proposal cannot meet agreed local plan policies. The use of a transparent approach, with viability assessments open to public scrutiny, would help address public distrust of the planning system, particularly at a time when larger house-builders are achieving their highest levels of profit.

However, there may be highly exceptional circumstances where legitimate reasons for keeping limited elements of viability assessments confidential exist as a result of the legal implications around commercially sensitive information.

The Planning Practice Guidance should outline the process through which developers can argue that certain information should remain confidential. This process should mirror that already employed by a number of local authorities and the Mayor of London:

- Developers should raise that they consider that there are exceptional circumstances during pre-application discussions.
- The applicant should provide a full justification that proves the adverse effect of publishing information and that the public interest of maintaining an exception to the policy outweighs the public interest of disclosing the information.

These proposals would ensure that standardised, published viability assessments do not become watered down.

Question 8

Would it be helpful for national planning guidance to go further and set out the circumstances in which viability assessment to accompany planning applications would be acceptable?

Yes

Please enter your comments here:

Yes.

The draft PPG should state that further use of viability assessments should only be acceptable with regard to a defined list of circumstances to deliver the government's intention to reduce the use of viability assessments at the decision-taking stage. It will also ensure that the policy is appropriately and consistently interpreted. Providing a defined list of such circumstances is important, particularly for rural councils who often lack the resources or expertise to counter the

use of viability assessments (as opposed to teams of viability specialists in a number of large urban areas, for example).

Where an applicant wishes to submit an application accompanied by a viability assessment, the applicant should provide **clear evidence** that there has been a **significant** change in circumstance since the assessment as part of the plan-making process.

The current list of circumstances is not clear enough to appropriately limit the use of viability assessments as part of the planning application process. This is partly as a result of discrepancies across the draft PPG (for more information on this see CPRE's answer to Question 10).

The guidance currently states that development proposed on an unallocated site is a reason for a viability assessment at the decision making stage. If a plan includes policies based on site typologies, such as location, greenfield/brownfield and site size, then viability assessments should not be used for individual sites. This example must be removed from the PPG. If an applicant wishes to submit a viability assessment they should be required to provide clear evidence of a significant change in circumstance.

Different modes of delivery should also be considered at plan-making stage, including the provision of low-cost rent, as different types of affordable housing need are established. This example should, therefore, be removed from the draft list.

We support the statement in the draft PPG that the price paid for land is not a valid reason for not meeting local plan policies or submitting a viability assessment. However, the guidance should also clearly state that viability assessments should not be used to manage normal market risks.

Question 9

What would be the benefits of going further and mandating the use of review mechanisms to capture increases in the value of a large or multi-phased development?

Please enter your comments below

We support the mandatory use of review mechanisms for large and multi-phased development, in order to better capture increases in the value of a development. In the absence of such review mechanisms, developers can potentially expect to receive very high profits if circumstantial factors lead to a significant rise in land and property values over the time it takes to complete the development.

Review mechanisms would capture a greater proportion of these profits for the benefit of communities. This could be particularly beneficial in allowing the 'claw-back' of contributions where proposals are originally unable to meet affordable housing targets. However, it is imperative that any such review mechanisms are not seen by developers as an opportunity to negotiate *down* their affordable housing contributions, even in cases where the overall value of a development has declined over time. Therefore review mechanisms should be accompanied by an expectation that developers should still meet the local authority's minimum affordable housing target in full.

The expectation of review mechanisms might also encourage developers to provide fuller and more accurate assessments of their predicted costs up front, in the knowledge that estimated

costs will be periodically reviewed against actual costs and values. This would increase certainty for developers and local authorities.

Question 10

Do you have any comments on the text of Chapter 4?

Yes.

Pre application engagement

We welcome the increased encouragement for engagement with non-statutory consultees, including design panels, which should have the opportunity to influence proposals and could help to reduce delays later on in the planning application process. However, early engagement with local communities should be more fully encouraged. Therefore, DNPPF 41 should be amended to remove 'where they think this would be beneficial' so that the line reads: 'They [Local authorities] should also encourage any applicants who are not already required to do so by law to engage with the local community and, where relevant, with statutory and non statutory consultees, before submitting their applications.'

Viability - Planning Practice Guidance

CPRE has a number of comments relating to the draft Planning Practice Guidance on Viability. We welcome the Government's intentions on this but are concerned that the proposed Guidance will not deliver the desired results. The approach fails to consider differences between urban and rural authorities: we call on the guidance to be rural-proofed. Additionally, in its current form the PPG is confusing with regard to how local authorities should set affordable housing policies. A number of amendments are needed to clarify the intention and interpretation of the guidance to ensure that viability does not reduce the provision of affordable housing and viability assessments are not used to evade meeting affordable housing policies. More detail regarding these issues is below.

Comments regarding the definition of affordable homes are in our response to the Glossary.

- Overview

Our recent report, *Viable Villages*, with Shelter, found that viability assessments resulted in a 48% cut in the number of affordable homes in rural councils, below that which was required by local plan targets. It recommended that viability assessments should be fair, limited and transparent.

We support the government's intention that viability assessments should be transparent, proportionate and simple. A consistent approach in assessing viability at all stages of the process will improve the transparency and accountability of the process.

Affordable housing policies should first and foremost stem from an assessment of affordable housing need: it is not just about what is viable. This must be clear within the planning practice guidance. The guidance should recognise the role of other providers of affordable housing, including community land trusts, and reflect other delivery policies, such as the use of rural exception sites.

- Plan-making

Affordable housing policies are strategic policies and the planning practice guidance should acknowledge this.

This section of the guidance is unclear. The second and fourth questions in this section contradict each other. It is unclear if the Government means for every allocated site to have undergone viability testing, or whether councils can make use of site typologies and avoid detailed assessment of every site.

We fear that, in its current form, the draft guidance will result in lower, unambitious affordable housing policies that will not push developers to deliver the affordable homes that are needed. If, as it could be implied, every site needs to be assessed for viability, affordable housing policies will adopt the lowest proportion of affordable housing as a policy. Councils will then be unable to push for higher proportions of affordable housing on sites, even though higher levels would be 'viable'.

Instead, we consider that viability should be assessed across the whole plan, rather than for individual sites. The use of site typologies will be particularly important in plan-making and should be strongly encouraged, particularly for rural authorities who may lack the resources and capacity to assess every allocated site. Policies derived from the use of site typologies can then be used to inform proposals on windfall sites and for allocated sites. Where there is a lack of site specific data, local authorities should consider the use of site typologies as a means to set expectations for those buying, or interested in buying, land.

Large, complex and strategic sites may benefit from site level assessments, particularly where there is likely to be a significant uplift in land value that can be invested in providing higher levels of affordable homes and ensuring infrastructure is delivered.

Viability assessments as part of plan-making should set realistic land values to help ensure affordable homes can be delivered in market-led developments. However, placing so much weight on existing data in determining viability will entrench the current exorbitant prices paid for land and will have little impact in supporting an increase in the number of affordable homes delivered (more on this below).

The Planning Practice Guidance should also reflect the requirements of rural exception sites (see 'inputs' below).

- Decision-making

The guidance should balance the risks that should be considered by an applicant in deciding whether to bring a site forward and the appropriate use of review mechanisms. We are concerned that the current emphasis on review mechanisms could open the floodgates for viability assessments to be submitted after an application has been approved to ensure that all development proposals deliver at least 20% profit. Guidance on review mechanisms should be accompanied by an expectation that they should not be used to negotiate to reduce agreed affordable housing requirements.

As in plan-making, the guidance should be clear that such viability assessment should not be used to manage normal market risk - and we support the statement that this risk should be already accounted for.

On stalled sites, local authorities should be guided to consider other mechanisms available to support the development of sites which already benefit from planning permission, including the use of central funding mechanisms, Compulsory Purchase Orders, completion contracts set out in planning obligations, or the subdivision of sites. Advice provided by the Greater London Authority already takes a similar approach, and there is a wide variety of good practice emerging in authorities such as Birmingham and Central Bedfordshire.

- Inputs

We welcome the standardised approach to assessing viability and the clarification that the cost of complying with policy requirements should be accounted for in the benchmark land value. However, comparable data may be in less abundance in rural areas where sites tend to be smaller and more varied.

In addition, the use of existing information to establish land values will not support the delivery of much needed affordable housing in the long run. It may mean hope value, which should be excluded from the price paid, is incorporated into benchmark land values, as precedents have already been set.

Moreover, the proposed approach to benchmarking land values does not respond to the specific requirements of rural exception site (RES) policy. Setting landowner uplift by looking at

comparable uplift for market developments ignores the fact that market housing on RES sites is solely to facilitate the supply of affordable housing. If the same approach is used across RES and market led developments, then rural exception site schemes are likely to be unviable without a high proportion of market housing, which would undermine their very purpose.

We also strongly disagree with the approach suggested for calculating developers' return. While there is no explicit reference to a 'competitive return', the proposed approach ingrains the requirement for all sites to provide a 20% profit for developers. This level of profit reflected the increased risk as a result of the financial crash, but such a high margin is no longer essential in getting development moving, and is much higher than the margin many other businesses would aspire to achieve. The guidance should be clear that this profit is not a minimum suitable return. Additionally, the expectation of a lower profit for developers delivering affordable homes, may act as a perverse incentive with developers risking a higher profit over meeting affordable housing policy requirements.

The local authorities should be required to collect data, monitor and publish information regarding the standardised inputs.

- Accountability

We welcome much of this section and agree that it is essential for developers to be accountable to communities and that communities are able to easily see where contributions towards infrastructure and affordable housing have been secured and spent.

MHCLG should collate and publish, in an accessible format, the reports on developer contributions, including infrastructure funding, and other commuted sums including green space and affordable housing provision.

Chapter 5: Delivering a wide choice of high quality homes

Question 11

What are your views on the most appropriate combination of policy requirements to ensure that a suitable proportion of land for homes comes forward as small or medium sized sites?

Please enter your comments here

We welcome the government's emphasis on the importance of small sites, which often make a significant contribution to housing supply in rural areas. We support the principle of encouraging local authorities to be more proactive in identifying and making positive use of small sites to help meet local needs, *especially* small brownfield sites. However, we strongly disagree with setting a target of 20% as we are concerned that it could have unintended consequences, for example leading to less sustainable sites being pursued in areas where small sites do not provide the best opportunities for development, or leading councils to be complacent in areas where small sites are naturally more abundant. We therefore consider that, if it is included at all, this aspiration should be expressed as a guideline rather than a strict target.

We would welcome more clarity and consistency throughout the main text of the NPPF on how the government proposes to define small sites (whether by size, number of homes, or both) and wording to the effect that local planning authorities should give particular weight to small brownfield sites when allocating land for development.

Brownfield registers can play an important role in the identification of small and medium sized sites, but CPRE's *Unlocking Potential* research found that many small urban brownfield sites currently go unrecorded because the regulations governing the operation of brownfield registers do not compel local planning authorities to proactively identify smaller sites. The role local communities, neighbourhood planning groups and others in identifying these sites should be recognised and strongly promoted in the brownfield register planning practice guidance. The government should publish a nationwide brownfield register to support SMEs identify opportunities for development of small brownfield sites, with guidance also provided to self- and custom- builders to bring forward land identified through these mechanisms.

We suggest that local authorities monitor the proportion of planning permissions and completions on sites of different sizes, including small sites. National government should then collate and publish this data to ensure a transparent approach.

Care also needs to be taken to ensure that genuinely affordable housing will still be provided through an increased emphasis on small sites. This might be achieved through allowing lower thresholds for affordable housing requirements (see our comments in response to Question 14 below), or by using policies of careful restraint to encourage greater use of rural exceptions-style policies.

So-called 'Garden' communities (existing NPPF para 52)

A number of organisations are calling for the reinstatement of the commitment in existing para 52 to Garden City principles. CPRE would object to this. If the NPPF is to refer to any development principles these need to be stipulated in the NPPF - following consultation - and also enforced, otherwise there is simply no point. CPRE is deeply concerned about the current interpretation of Garden City principles, which are often used to justify low-density, car-dependent suburban sprawl: a situation that would have the inventor of Garden Cities, Ebenezer Howard, spinning in his grave.

Question 12

Do you agree with the application of the presumption in favour of sustainable development where delivery is below 75% of the housing required from 2020?

No

Please enter your comments here

No.

CPRE strongly disagrees with the housing delivery test - our full comments on this are in our response to Q14. In particular, we strongly disagree with the threshold set and the impact it will have on ensuring high quality design and delivering the right mix of housing that meets community needs.

Just 30% of councils have delivered enough homes to meet either their local plan housing requirement (where a plan has been adopted in the last 5 years) or the standard assessment of housing need figure over the last three years. Additionally, CPRE analysis using current data suggests that over 40% of councils could have the presumption in favour of sustainable

development apply from 2020, including 57 councils with a local plan that has been adopted in the last 5 years. The housing delivery test is setting councils up to fail.

Councils who have taken the time and effort to develop a local plan and establish a 5 year land supply, should be able to uphold the policies within their plan and not face the unfair threat of the presumption in favour of sustainable development. Instead, it is essential that realistic expectations of delivery are taken into full account when testing the soundness of plans (for more on this see CPRE's answer to Question 5).

Question 13

Do you agree with the new policy on exception sites for entry-level homes?

No

Please enter your comments here

No.

We do not support the ill-conceived and ambiguously worded policy in DNPPF 72.

Exception sites were initially conceived as a mechanism for rural communities to get homes built that local people could afford to live in. They were, by their very nature, designed to be exceptions (hence the name) to normal planning policies of restraint in the countryside. The significant constraints surrounding what kind of homes could be built on rural exception sites, and who was eligible to live in them, were a way of guaranteeing community support for house-building in places which would otherwise have been considered unsuitable for development.

The introduction of the principle of cross-subsidy of market housing on rural exception sites in the 2012 NPPF challenged one of the foundations of the policy - that homes built on exception sites should be genuinely affordable. The text also included the forced relaxation of policies of restraint in the countryside, attaching a 'hope value' to land which would not previously have been granted planning permission under any circumstances, and thereby disincentivising landowners from bringing forward land for less profitable rural exception sites.

The introduction of so-called entry-level exception sites risks undermining the plan-led system completely. We have serious concerns about the affordability and size of such developments, who would be eligible to live in them, and their impact on the countryside and on rural affordable housing delivery more widely.

First, the text of DNPPF 72 does not make clear what constitutes 'a high proportion of entry-level homes', whether the government expects local authorities to set a mandatory proportion, or whether these homes will be available at sub-market prices in perpetuity. CPRE recognises that starter homes can play an important role in catering to particular sections of the housing market, but only if they form part of balanced developments and remain subject to strict affordability requirements upon resale.

There is also a lack of clarity over the anticipated size of the sites, or how widespread the government expects their development to be. Under the current model, rural exception sites rarely exceed 10 homes, but the new recommendation that entry level exception sites be 'proportionate to' existing settlements suggests they could be on a much larger scale. We are concerned that this policy might open the door to hundreds of new homes being built on greenfield land which has not been allocated for development in local plans, including lots of unaffordable market housing, in the guise of cross-subsidy for affordable/entry-level homes.

Finally, the new entry-level exception sites policy does not mention local connection criteria, which have been a crucial element in ensuring community support for development on rural exception sites. Without any guarantee that entry level exception sites will provide genuinely affordable homes for local people in perpetuity, such developments are likely to face serious opposition from within existing communities and we fear that this policy might also undermine the great success of rural exception sites in providing the affordable housing that rural communities desperately need.

Instead of creating more exceptions to local planning policies and offering more opportunities for developers to game the system, the government should seek to ensure that the plan-led system actually delivers for rural communities. A greater number of appropriate sites should be allocated for development through local and neighbourhood plans in rural areas **where there is an identified local need** and where development would not compromise the protection offered by the designations listed in footnote 7. Moreover, councils should be empowered to set targets for affordable housing contributions on all sites, including developments of fewer than 10 homes.

Question 14

Do you have any other comments on the text of Chapter 5?

Yes.

Title of the chapter

In the 2012 NPPF, Chapter 6 was titled 'Delivering a wide choice of high quality homes'. In the revised draft NPPF Chapter 5 is titled 'Delivering a sufficient supply of homes', yet the consultation document retains the wording from the existing NPPF. We have concerns that the altered wording in the revised DNPPF suggests that government is concerned only with the numbers of homes provided, and not with their appropriateness, quality or affordability. We therefore suggest that the NPPF retains the existing chapter title from the 2012 version.

'A Sufficient Amount and Variety of Land' (DNPPF 60)

DNPPF 60 refers to the need for 'a sufficient amount and variety of land' to be brought forward to significantly boost the supply of homes being built. We recommend that this paragraph should also stress the importance of choosing sites which minimise the negative environmental impacts of development. The government should also restate its commitment to the relevant United Nations Sustainable Development Goals, as noted in our response to Question 2.

Local Housing Need Assessments (DNPPF 61)

We strongly disagree with the standard approach for assessing local housing need, as set out on pp. 24-5 of the PPG. We agree that a standard methodology for calculating housing need may help reduce delays and provide certainty for local authorities. However, we are concerned that the current proposed method conflates actual people's need for development with abstract indicators of demand based on 'market signals'. This is a flawed approach which reflects the ability and willingness of wealthy people to pay for property (including second, holiday and investment properties) rather than the actual need for homes in a given area. Local authorities should not be required to plan for demand, which will be met naturally due to market forces, but they should plan to meet need, insofar as this is possible while still maintaining the protections enshrined in footnote 7.

The government's proposed approach to assessing need — which takes household growth projections as a baseline and adjusts them according to market signals — will result in disproportionately high housing targets being set in areas of high market demand. It will concentrate development in places where the housing market is already overheated, at the expense of other parts of the country more in need of investment, and will not bring down the affordability ratio, since house pricing is driven by many factors in addition to simple supply. It will

cause further regional imbalance and exacerbate the North/South divide, whereas CPRE believes the new NPPF should offer a more balanced approach to development.

There is still no clear understanding of how communities should move from this abstract number to a realistic, deliverable and sustainable housing target in their local plan.

Please also see our comments in response to Question 43 on the definition of need and demand. Commuted sums (DNPPF 63)

The NPPF should be amended to ensure that the use of commuted sums for the provision of off-site affordable housing are only used in a limited set of circumstances. Commuted sums rarely reflect the cost of delivering affordable homes elsewhere: in one instance in Newark and Sherwood, developers paid the equivalent of £2,000 per house that should have been provided. This case was highlighted in our report *Viable Villages*. Commuted sums should only be considered where there is a known site that can be used and which would not otherwise be developed for affordable housing, and where it would genuinely be impracticable, for example on a some small sites, to provide affordable homes on the main application site.

Vacant Building Credit (DNPPF 64)

Whilst, we support encouragement to reuse vacant buildings, local plan policies are best placed to balance opportunities to redevelop suitable brownfield sites. It is also essential that this does not push affordable housing provision to the periphery of our urban centres.

The revised NPPF should clarify that the principle of vacant building credit is to enable councils to justify setting aside affordable housing requirements on brownfield sites where the regeneration of the site is a key aspiration for the local community but a requirement for affordable housing might render this regeneration unviable. Affordable housing should still be secured in the regeneration of such sites where it would be viable to do so, and where this viability is determined by the costs of construction, not the expectations of a return to the landowner.

Affordable homes on small sites (DNPPF 64)

Small sites make a significant contribution to meeting housing need and ought to be one of the key routes to providing genuinely affordable homes in rural areas. However, DNPPF 64 currently states that affordable housing contributions should not be sought on developments of fewer than 10 homes, except in 'designated rural areas' where councils may set a threshold of 5 dwellings or fewer. The reference to lower thresholds in designated rural areas is a nod in the right direction, but the text fails to define the term. We fear that the definition in Section 157 of the 1980 Housing Act may be used, which would cover only 21% of rural Parish and Town Councils with a population of less than 5,000.

In practice, many local authorities *do* set affordable housing policies on sites with fewer than 10 homes to help them meet an identified affordable housing need. However, the Written Ministerial Statement has already made it more difficult for councils to meet this need. It has enabled developers to renegotiate planning agreements to remove affordable housing contributions, even on sites where such contributions would be viable. We believe that all local authorities should be encouraged to set their own thresholds for affordable housing contributions, based on a transparent assessment of local need, and empowered to uphold these local policies; not have the power taken away from them.

10% affordable home ownership (DNPPF 65)

We support an expectation that major housing developments should include homes for affordable home ownership as part of the spectrum of housing solutions required to meet local housing needs, as this helps to address the needs of people on middle incomes who are not quite able to access the housing market. However, this should be based on local assessments of actual need for this type of tenure, which may be higher or lower than 10%. Critically, this policy should explicitly recognise that homes for affordable ownership should not be viewed as a substitute for providing enough genuinely affordable rented homes to meet the needs of those on lower incomes, for whom even sub-market ownership is out of reach. As we point out in our response to Question 43

(definition of affordable housing) below, there is a particular need for social rented housing in rural areas.

Requirement figures for neighbourhood areas (DNPPF 66,67)

We are deeply concerned to see in DNPPF 66 and 67 that councils are now expected to set housing targets for neighbourhood areas, even in places where an up-to-date neighbourhood plan exists. The distinction between plans should be seamless, and if a community has positively prepared a neighbourhood plan its aspirations should be maintained in the relevant strategic plan unless there is no reasonable alternative. Overruling neighbourhood plans and imposing high housing targets on neighbourhood areas as a result of too few homes being built elsewhere in a local plan area is socially and environmentally unjust. Instead, we recommend that planning authorities set guideline figures for housing distribution across their areas, which subsequent local plan site allocations and neighbourhood plans would seek to implement through the identification of appropriate unconstrained opportunity sites; there should be no compulsion to meet such guideline figures, and no penalty for failing to do so, but encouragement given to exceeding the guideline where unconstrained opportunities allow. (In effect this is the same principle that should be followed with regard to local plans and a standard OAN.)

Deliverable land supply (DNPPF 68 and Glossary)

A case could be made to bring DNPPF 119 into this section on identifying land for homes, to encourage councils to be proactive in identifying and helping to bring forward suitable brownfield land for development.

The definition of a deliverable site should not rely on it being available for development now, which is not necessarily an indication that development will take place, but on 'there being a reasonable prospect that development will take place on the land within five years' as is already the case in the Brownfield Land Register Regulations 2017.

CPRE is very concerned that the draft NPPF proposes that sites in brownfield registers should only be considered 'deliverable where there is clear evidence that housing completions will begin on site within five years'. Such a requirement contradicts the proposed approach to small sites (some of which could appear on brownfield registers) where the definition sets a default position that they should be considered deliverable unless there is clear evidence to the contrary. Moreover, it also contradicts Ministers' stated commitment to prioritise brownfield sites. If local authorities are expected to provide clear evidence that work will begin on brownfield sites within 5 years then it is very likely that many of them will not feature in the 5 year supply [which acts as a key incentive for developing a register]. Whilst we recognise that the remediation of sites may result in it taking longer for development to occur, it is important that they are not relegated as this will mean that they are not prioritised for funding. It is worth noting that recent CPRE research has demonstrated that, once granted permission, brownfield sites are generally developed more quickly than greenfield, which indicates that on balance brownfield sites are more deliverable than greenfield.

CPRE recommends that the approach to 'deliverable' should be the same for both small sites and all other sites on brownfield registers - i.e. they should be considered deliverable until there is clear evidence that they will not be. Additionally sites with detailed planning permission, as well as sites with outline permission (unless the build-out rate as determined through a planning permission justifies it not being), and sites with Permission in Principle, should all be considered to be deliverable unless there is clear evidence provided by the site's landowner or developer that they will not be.

Promoting a mix of sites (DNPPF 69)

CPRE welcomes the proposed encouragement (DNPPF 69d) for the subdivision of large sites where this could help speed up the delivery of homes. As we have highlighted in our submission to the Letwin Review of Build Out, since 2006 the large plc housebuilders have increased their stranglehold over the supply of developable land while reducing their overall completion rates. Given this context, however, we believe that some developers may resist moves to subdivide their

sites. Accordingly CPRE recommends that the final NPPF should state that 'where local authorities wish to encourage sub-division of sites, developers should work positively with local authorities to enable these to be included within the 5 year supply of deliverable sites where possible'. Additionally, more guidance is needed on how this policy will be implemented through Planning Practice Guidance.

Windfalls (DNPPF 71)

Windfall developments can make an important contribution to meeting housing need, as it is rare for a council to allocate sufficient land to meet its entire housing requirement within the local plan. Local plan policies should set out clear criteria-based policies for windfall sites, setting size thresholds and appropriate policies to prevent over-development in villages and small towns, and with a focus on brownfield.

In assessing potential windfall policies and allowances, in addition to the sources of information listed, councils should also have regard to parts 1 and 2 of their brownfield register and policies in Neighbourhood Plans.

In order to allow councils to appropriately use windfall allowances as part of the 5 year land supply calculations, there should only be a need for evidence that they will provide a reliable source of supply, removing the word 'compelling' from the policy. The requirement for 'compelling' evidence places too high a burden on local authorities, with inspectors regularly reducing the windfall allowance within housing land supply calculations at appeal far below the rates which the evidence suggests could be delivered.

Windfall development should be regularly monitored to ensure that they can be fully taken into account, and the allowance adjusted in response as necessary.

It is worth noting that the large housebuilders have traditionally objected to councils using a windfall allowance and preparing local criteria-based policies that allow windfall sites because doing so forced councils into identifying monolithic housing allocations, which suit the big housebuilders' business model, to the detriment of SME builders and the housing needs of rural communities. Providing a flexible and responsive approach to windfall developments is essential in facilitating custom- and self-build, smaller housebuilders and meeting rural housing needs. Advice may be needed in the PPG regarding the relationship between windfall allowances and sites identified through neighbourhood plans that were not anticipated in the local plan (as well as sites brought forward through neighbourhood development orders or community right to build orders); there is a good case for considering all of these types of contribution as windfall sites.

Maintaining supply and delivery (DNPPF 74 – 78)

CPRE welcomes the principle of an annual position statement to demonstrate a 5 year land supply. We have called for this kind of measure for a number of years as a means to reduce the scope for planning by appeal arising from the current NPPF housing supply policies. However, there are a number of problems with the draft policies that will allow local authorities to produce this statement (see below).

Local authorities should monitor the types and tenures of housing being delivered against the policies that have been based on an assessment of housing need in their local plan.

Local authorities should prioritise the delivery of existing commitments before allocating new sites, examining the reasons why sites are not delivering as quickly as expected. This could be part of the requirement to produce an action plan as part of the housing delivery test.

We welcome the inclusion of communal accommodation as part of the housing delivery test. This important element of supply should be incorporated more widely into monitoring the supply of homes.

Buffers (DNPPF 74, 76)

We strongly disagree with the need to include buffers as part of 5 year land supply calculations. If councils are failing to meet housing requirements, despite a council having previously determined that they have a 5 year land supply, then identifying more land will not help. If a council has allocated enough land to meet a 5 year land supply, then the focus should be on

getting these sites delivered as they should represent the most sustainable sites. The use of arbitrary buffers, and requiring councils to allocate even more land when delivery falls behind, will allow developers to cherry-pick the most profitable sites and will not deliver a larger number of homes. At the same time, it will mean that sites that are in less sustainable locations will be developed whilst the most sustainable locations are left undeveloped. This will place even greater pressures on designated landscapes and does not guarantee the delivery of well-designed developments that enhances local communities.

We do not believe that it is justified or cost-effective for local authorities effectively to be expected to increase their supply of deliverable housing sites by 5% or more in order to have an annual position statement (DNPPF 74b). This would act as a perverse incentive to allow more speculative planning applications where there has not been proper planning for supporting infrastructure or to address environmental impact. We recommend that this condition is removed.

CPRE recommends that the Secretary of State should not use the annual statement to impose additional land release requirements on local authorities, unless there are very exceptional and new circumstances which mean that already allocated or permissioned sites will not come forward within 5 years. Even then, the focus should be on unblocking existing identified sites rather than identifying new ones.

Additionally, we strongly disagree with the a buffer being part of the Housing Delivery Test (see below). For many councils, the rules are likely to mean that a over half of local authorities will be incorporating an arbitrary buffer (CPRE analysis).

Engagement (DNPPF 76)

CPRE recommends that there should be greater clarity as to what 'engagement with developers and others' will mean. Local authorities should not be expected to embark on a resource-intensive exercise of checking progress of permissions. Developers should be expected to provide this information as a matter of course through binding contracts to deliver development set out when permissions are first granted, and in line with commitments that the HBF has already made on behalf of the industry in this regard. The final NPPF should reflect this.

Housing Delivery Test (DNPPF 75, 77)

We strongly disagree with the housing delivery test.

Fundamentally, councils' power lies in identifying sites in local plans and in granting planning permission. Councils are required to have plans in place that demonstrate a 5 year supply of land for housing development. This should be sufficient for the NPPF, and the document would be considerably shorter and less convoluted if the housing delivery test was relocated into the PPG, or - preferably - deleted in its entirety. In a situation where housing demand is almost infinite and house prices are the highest they have ever been, and local planning authorities are allocating sites or granting permission for significantly more sites than the industry is capable of building, then **the question of why homes aren't being built in sufficient numbers is not a matter of planning policy.**

CPRE recommends the deletion of all references to the housing delivery tests (other than the requirement to maintain a 5 year supply of housing land in the context of realistic housebuilding aspirations). However, if the test is to remain in the NPPF/PPG we have the following observations.

We highlighted a number of concerns with regards to the housing delivery test in our response to the Housing White Paper consultation. We remain concerned that there is a lack of clear guidance that enables local authorities to take account of the capacity and willingness of the house-building industry when establishing their housing requirement. This, coupled with effective measures for local authorities to compel developers to deliver, will mean that the housing delivery test will unfairly penalise local authorities and communities for the failures of housebuilders.

The housing delivery test holds councils to account against the headline demand-led housing figure, which prioritises the construction of *any* houses, anywhere, over a focus on building the

right kind of homes in places where they are actually needed. This will result in an increasing gap between housing need and affordability, resulting in a subsequent increase in the area's demand-based local housing need assessment and the creation of a vicious cycle of unsustainable, unaffordable development. The delivery test also incentivises developers to slow down building rates in order to obtain planning permission on a potentially more profitable site elsewhere. Additionally, given the time lag between planning permissions and the completions, councils will continue to be penalised over a number of years despite having taken action to address low delivery. Furthermore, constantly changing housing need figures will make it more difficult for local authorities to genuinely control whether or not development is meeting the supposed housing need.

Instead, if a council has allocated enough land to meet a 5 year land supply, then the focus should be on getting these sites delivered as they should represent the most sustainable sites. The use of arbitrary buffers, and requiring councils to allocate even more land when delivery falls behind, will continue to allow developers to cherry-pick the most profitable sites and will not deliver a larger number of the homes that are needed.

- Letwin review

Additionally, interim conclusions from the Letwin review show that it is the absorption rate that is a leading cause of slow build-out rates, therefore, forcing councils to release more and more land will not lead to a comparable increase in the delivery of new homes.

We urge the Government to wait for the outcomes of the Letwin review of build-out rates to ensure that measures to increase the supply of homes address the causes identified.

- Delivery as a market signal

CPRE is suspicious of house prices as a 'market signal' to indicate the need to increase housebuilding, because house prices are not just related to the relationship between supply and demand. However, housebuilders sometimes respond to accusations that they are building homes too slowly with the explanation that they are building homes as fast as they can sell them. Housebuilding rates should therefore be taken as a direct indicator of market demand in an area - of more relevance than house prices - and should be taken into account when determining both the housing requirement and the 5 year housing land supply position.

- What should delivery be measured against?

If the test is to go ahead, in order to ensure that 'ambitious' local authorities are not penalised, the DNPPF should be amended to state that housebuilding performance should be assessed only against a combination of household growth rates and an estimate of unmet local need (based for example on concealed households or housing waiting lists), and not against the market demand uplift or any aspirational growth rate above these baselines.

On the other hand, it is essential that local authorities with strong reasons for setting lower targets are not held to account over a housing need figure that would result in unsustainable development.

The Planning Practice Guidance on Housing Delivery should be amended to:

- p. 13. Be clear that a housing requirement within a local plan should not normally be amended between their five-yearly reviews. Further clarification is also needed, with regard to what the triggers will be for revising the housing figure.
- p. 14. To remove the application of the buffer to the past shortfall as well as the current housing requirement. This is in effect penalising local authorities twice for under-delivery.
- p. 15. All local authorities should be able to have an established 5 year land supply position for at least a year (if not longer). It can take a significant amount of time to speed up development on identified sites, or find new previously unidentified deliverable sites. Therefore, under-resourced councils should be able to rely on evidence for a timeframe proportionate to the time taken to develop the position, for example 2 years.

- p. 16. The annual position statement should include detail of the options open to local authorities to address the reasons for delays to commencement on sites or slow build-out rates.
- p. 16. Please see CPRE's comments to Question 43, on the definition of deliverability.
- p. 18. The application of the housing delivery test should work alongside local authority review processes. Previous studies (<https://www.planningresource.co.uk/article/1445478/data-blog-why-standard-housing-need-method-means-plan-makers-bumpy-ride>) have shown the significant variation to household projections as a result of new data, both increasing and decreasing need estimates. Councils should be given time to address these changes as part of the process for reviewing local plans.
- pp. 18-20. Does the Planning Inspectorate have the capacity to take on this workload in a timely manner? More clarification on this is needed as any delays are likely to result in open-season for developers and speculative applications on unsuitable sites.

Planning Practice Guidance on the Housing Delivery Test

Whilst we strongly disagree with the housing delivery test, we make a number of suggested amendments on the PPG below.

We recommend that the Housing Delivery Test and Housing Delivery PPGs are combined to avoid unnecessary duplication. In addition to the comments above relating to text within the current draft Housing Delivery PPG, we recommend that:

- p. 21 suggests that the presumption in favour of sustainable development could apply to local councils over a whole year as the Housing Delivery Test is only updated in an annual basis. This will lead to unplanned, speculative development: if councils can prove that they have a 5 year land supply, then the presumption in favour of sustainable development should no longer apply.
- p. 22: the list of stakeholders that could be involved in the creation of an action plan should be widened to include groups such as Neighbourhood Planning groups; Community Land Trusts, NGOs and local communities.
- p. 22: the action plan should include discussion regarding efficient use of land.
- p. 23: action plan actions should ensure that weight is still afforded to other policies, such as those protecting designated green spaces.

Housing Delivery Test: draft measurement rule book

We welcome the inclusion of communal accommodation as part of the calculation of housing supply. However, more clarity is needed on how the nationally set ratio for student and other communal accommodation will be calculated.

Planning conditions - implementation in a timely manner (DNPPF 78)

CPRE welcomes the proposed policy as far as it goes, but believes that it will need to be strengthened. In particular, we recommend that local authorities should be encouraged to enter into contracts with developers (similar to Planning Performance Agreements) to require sites to be built out within a given period and to subdivide sites where this would help the delivery of new houses.

Where sites are not built out as quickly as expected, or required, developers should be required to provide reasons for the delay.

Rural housing (DNPPF 79-81)

CPRE has particular concerns that the proposed policy on rural exception sites (DNPPF 79) does not clearly require a majority of housing to be affordable to meet identified local needs. We recommend that the final version is changed to address this. Rural exceptions sites should result in housing developments that are genuinely exceptional in terms of their affordability.

Chapter 6: Building a strong, competitive economy

Question 15

Do you agree with the policy changes on supporting business growth and productivity, including the approach to accommodating local business and community needs in rural areas?

No

Please enter your comments here

DNPPF 82 suggests that the government's approach to planning for business development, like its approach to planning for housing, is to focus investment in areas which are already booming. Chapter 6 contains no evidence of a spatial strategy or recognition of the role that well-conceived planning policies could play in helping to rebalance the economy away from London and the South East, in line with the government's Industrial Strategy. Instead of simply promoting further growth in areas that are already economically vibrant, with full employment and rising wages (but usually constrained opportunities for development) we would like to see the NPPF encourage development in areas which are currently underperforming economically, where increased investment could have a genuinely transformative effect, and where there is underused infrastructure, and many opportunities for redevelopment of brownfield and other degraded sites.

The Government should use town and country planning to steer growth in the most appropriate and necessary areas. It is wrong to view planning as a restriction to growth. In fact, the reverse is true. If used properly, planning policy can make a positive contribution to ensure that business needs are met in a sustainable way, to aid enhancement of quality of life for all.

We would like to see DNPPF 83 explicitly recognise the importance of reconciling economic growth, social needs and environmental limits. In particular, we would welcome a statement on the importance of guiding business development to suitable brownfield sites, which is essential for making the best use of land. The NPPF should place significant emphasis on ensuring that economic, social and environmental considerations are properly integrated. It should be made clear in the policy that the inadvertent development of dormitory towns is not 'sustainable development' from an economic, social or environmental point of view.

We welcome the emphasis on the importance of sustainable transport infrastructure in DNPPF 85 but are concerned that the development of retail and business parks outside of existing settlements can blur the boundary between urban and rural areas and contribute to urban sprawl.

On a wider note, the emphasis on delivering housing, including the widespread use of permitted development rights to convert business premises and agricultural buildings to residential use, makes it harder for communities to manage land for employment premises, and particularly to protect low-rent premises for SMEs and start-ups. Communities should be empowered to strike these balances themselves in response to local needs and aspirations.

Question 16

Do you have any other comments on the text of chapter 6?

No.

Chapter 7: Ensuring the vitality of town centres

Question 17

Do you agree with the policy changes on planning for identified retail needs and considering planning applications for town centre uses?

Not sure

Please enter your comments here

Yes, for the most part.

DNPPF 86g on supporting diversification and changes of use in town centres which are in decline contains some positive rhetoric but no real detail regarding what form such support should take or how planning policies can avoid 'the unnecessary loss of facilities that are important for meeting the community's day-to-day needs'. CPRE recommends that this policy is related to a wider policy to promote development in areas of the country which have historically suffered from a lack of investment. (See also response to Q2 above.) It is worth noting that the increased use of permitted development rights to support conversions to residential use can be counterproductive in this regard. The revised NPPF should seek not only to promote new development of main town centre uses, such as offices, commercial and recreational facilities, but also to maintain such uses in town centre locations.

We support the amended 'sequential approach' to town centre planning applications in DNPPF 87, which makes clear that out of centre sites should only be considered if suitable town centre or edge of centre sites are not expected to become available within a reasonable period, although we would like to see 'reasonable period' more clearly defined. We hope this policy will encourage the redevelopment of brownfield sites in town centres, which might not be immediately available due to the need for decontamination as well as encourage the intensification of existing uses, such as through improving accommodation above local shops. Over the long term, such an approach would hopefully foster a more sustainable approach to urban development and support the vitality of town centres.

Question 18

Do you have any other comments on the text of Chapter 7?

No.

Chapter 8: Promoting healthy and safe communities

Question 19

Do you have any comments on the new policies in Chapter 8 that have not already been consulted on?

No.

Question 20

Do you have any other comments on the text of Chapter 8?

Estate regeneration

There should be a commitment that there will be no overall loss of low cost/social housing, even if some has to be provided elsewhere as a result of estate regeneration. DNPPF 94 must be amended to include reference to the need to provide environmental benefits in estate regeneration, in particular green infrastructure. But if there is no plan to maintain green infrastructure in the long term there is a risk it will become unkempt and detrimental to the environment rather than improving it. Hattersley and Mottram Housing Estate in Manchester has been largely successful, but a lack of adequate green infrastructure has held eack progress in turning around the fortunes of the area. DNPPF 98 should include reference to allotment land. Suggested new text is shown in bold: 'Existing open space, sports and recreational buildings and land, including playing fields **and allotments**, should not be built on unless.'. This is to recognise the importance of allotments for local food growing.

Local Green Space designation

CPRE has reservations about the strength and applicability of the Local Green Space designation and how well it is being promoted. For example, achieving a LGS designation is very difficult for a Neighbourhood Forum – and the current wording supports the current quite restrictive approach. We would like to see broader, more supportive criteria. For example, “cultural significance” could be added to DNPPF 101b, and the phrase “extensive tract of land” (101c) could benefit from some definition.

DNPPF 100-101 has similar wording as before, but DNPPF 100 omits important wording which states 'By designating land as Local Green Space local communities will be able to rule out new development other than in very special circumstances'. CPRE recommends that this wording is included in the revised NPPF. Our other recommendations are that a clear definition is provided of 'extensive tract of land'; guidance is needed on how the LGS designation sits alongside existing local landscape designations; and on how the LGS designated site would be 'protected' for longer than the life of a Local Plan (although we recognise that DNPPF 100 states that the designation should be capable of enduring beyond the Plan period).

Chapter 9: Promoting sustainable transport

Question 21

Do you agree with the changes to the transport chapter that point to the way that all aspects of transport should be considered, both in planning for transport and assessing transport impacts?

Not sure

Please enter your comments here

CPRE notes the changes made to the transport chapter (Chapter 9, DNPPF 103-111) and agrees with the general tone of the policy guidelines that are set out. In particular, we believe it is right to emphasise the need for the potential impacts of development on transport networks to be addressed. Over the course of many decades, it has become the norm for new developments to be constructed without sufficient consideration given to how they impact on and interact with, local transport infrastructure. One particularly noteworthy example is the need to increase strategic rail freight to the development at the Liverpool Superport. In addition to considering how development affects existing infrastructure, it is also crucial to consider how development might affect new transport infrastructure, such as the provision of new bus services. In recent years a number of new housing estates have been designed so poorly [that bus operators have been prevented from running otherwise viable services](#).

However, whilst making the most of transport hubs in built-up areas is, generally speaking, to be welcomed, it is inappropriate that there should be generalised statements which also apply to rural areas. For instance, DNPPF 103b makes it clear that principal authorities are expected to look for development opportunities alongside new roads. It has long been recognised when bypasses are built the difficult-to-farm pockets of land they create gradually fall for development (often in an unplanned manner). Hence, the settlement that has been bypassed gradually expands – with the new developments themselves creating more traffic movements. It is right that this phenomenon should be recognised officially but it is not a sustainable proposition to propose that new roads should automatically be regarded as development corridors.

There is also a noticeable change in the DNPPF from a position that local plans and proposals should provide public transport to simply promote or facilitate it. This is not aligned with the wider emphasis on sustainability in this section and should be reversed.

All developments which generate significant traffic movement should also be supported by a transport statement or transport assessment which should account for the likely transport impacts on air quality, environmental contamination and climate change and highway safety. A measure of the words ‘significant traffic movement’, is also required to reduce the potential for dispute.

Specifically in relation to DNPPF 109, greater clarity is also needed on what constitutes ‘severe’ impacts. With the bar set so high, this often fails to capture development that causes considerable residual cumulative impact. An effective definition of ‘residual cumulative impact’ would be one that takes into account future background traffic predictions in addition to any new traffic generated by a given development. It is not sufficient to interpret this definition as simply a nil-detriment outcome, compared to the status quo.

Looking across the entire chapter, the following policies are particularly welcome:

- DNPPF 104, the need to focus significant development in locations that are sustainable or can be made so through limiting the need to travel and provision of a choice of sustainable travel modes.
- DNPPF 105b, that planning policies should be prepared with active involvement of key actors such as local highway authorities, transport infrastructure providers and neighbouring councils. The creation of Sub-National Transport Bodies (STBs), Metro Mayors and Combined

Authorities have had a significant impact on transport policy-making and it is important that these new bodies are involved in the creation of local planning policies.

- DNPPF 105d, that planning policies should provide high quality walking and cycling networks.
- DNPPF 110a, that applications for development should give first priority to pedestrian and cycle movements and to facilitate access to public transport.

DNPPF 107 sets out policies relating to maximum parking standards for residential and non-residential development. CPRE feels that maximum parking standards should be enforced for non-residential development in areas that are already or are capable of acceptable public transport accessibility, in order to encourage greater sustainable travel.

The overall theme of the chapter reflects the chapter heading, 'promoting sustainable transport'. However whilst the rhetoric is generally strong, it bears no relation to the wider direction of government policy. There is a stark disconnect between the policies espoused in the NPPF and the wider policy direction being pursued by the government as a whole. The DfT's Road Investment Strategy Two reflects a siloed approach to transport planning with bypasses and distributor roads prioritised for investment whilst local authority subsidies for bus services are cut back. There have been some positive innovations in government policy, which reflect the tone of Chapter 9, in particular the Cycling and Walking Investment Strategy. However, these remain on the periphery of government policy.

CPRE recognises the lack of sustainable and integrated travel choices and the impact this can have on the sustainability of rural communities. Many living in rural areas have no choice in transport mode, other than the private car. The Roads Investment Strategy one and two have done little to alleviate this problem, despite the evidence set out in the CPRE Report, 'The End of the Road' which demonstrated that road schemes fail to cut congestion or boost local economies. The statement in DNPPF 104 is unambitious in its view that plan-making and decision-making should recognise the reduced opportunities of sustainable transport solutions in rural areas. This only serves to reinforce the vicious cycle that dictates public transport, walking and cycling, are only viable transport modes for urban areas. There are challenges to their provision in rural areas, but that should not be used as an excuse for bad development or poor local plans that do not seek to address the lack of sustainable travel choices in rural communities.

Question 22

Do you agree with the policy change that recognises the importance of general aviation facilities?

Not sure

Please enter your comments here

CPRE has no comment.

Question 23

Do you have any other comments on the text of Chapter 9?

No.

Chapter 10: Supporting high quality communications

Question 24

Do you have any comments on the text of Chapter 10?

CPRE regards high quality communications as key to the sustainability of rural communities. It is however important to minimise the visual and any other potential negative impacts. This can be achieved by encouraging operators to share infrastructure where possible (where the definition of 'possible' is not limited by operators' preferences or opportunities for marketing). It may also be possible to limit the landscape impact of new infrastructure, by ensuring that all new developments are future proofed with the appropriate communications capability. It is unclear why there has been a revision to this section, with DNPPF 113 stating that 'use of existing masts, buildings...should be encouraged' whereas existing NPPF 43 says that 'existing masts, buildings...should be used'. On paper this would appear to be a weakening of this sentiment and something CPRE would not support. We suggest reverting to the original wording.

Chapter 11: Making effective use of land

Question 25

Do you agree with the proposed approaches to under-utilised land, reallocating land for other uses and making it easier to convert land which is in existing use?

Not sure

Please enter your comments here

Under-utilised land (DNPPF 118d)

CPRE agrees with the principle, but consider that it could be clarified and strengthened.

This policy should explicitly refer to under-utilised Brownfield (previously developed) Land.

We support the recognition of the need for different approaches towards the different types of brownfield land - through redevelopment and intensification of under-utilised brownfield land, including land that can be categorised as currently in use, such as single-storey car parks. It should also be stated that development of under-utilised land should not harm the character of an area or the openness of designated areas, such as Conservation Areas, Green Belt or AONBs.

The **definition of under-utilised land** should be included in the glossary and specify that it does not include residential gardens, parks, recreation grounds and allotments in rural or built-up areas.

The policy could be strengthened by including a requirement within the Brownfield Register Regulations to record 'under-utilised' land as a category, in a similar fashion to the former National Land Use Database.

Converting land (DNPPF 118d cont)

We support this approach. In particular, the CPRE Housing Foresight Paper, *Making the Link*, examined the benefits of making use of existing sites, including car parks, that were next to public transport hubs. Additionally, making use of the space above shops can help bring life to hollowed-

out village and town centres. However, it is crucial that the appropriateness and degree of building upwards needs to take into consideration the impact on the character of an area. Consequently, it will likely be important to differentiate between urban and rural areas.

Reallocating land (DNPPF 120)

We consider there is potential for misinterpretation of this policy in terms of its application to different kinds of sites. We agree that the use (or mix of uses) that a site is allocated for should be kept under review when plans are updated. The precise mix of uses might also be reconsidered in response to a planning application in the light of 'other material considerations' in the spirit of this policy. A balance needs to be struck to support desired developments that may be difficult to achieve without holding out indefinitely for a development that is unlikely ever to happen.

With regard to **brownfield sites** in urban areas, where such sites are suitable for development, this will always represent the most sustainable option for meeting development needs (whether for housing, other uses or a mix of these). In such cases 'reallocation' should not be confused with 'deallocation', unless it would be desirable to retain the site in its existing condition for nature or heritage conservation reasons. Before considering whether or not to reallocate brownfield sites, local authorities should be guided to evaluate local housing need and to examine the reasons behind why a site has not come forward and whether appropriate mechanisms should be employed to overcome issues. For example, if funding could be obtained to decontaminate a brownfield site or support the development of infrastructure.

Local planning authorities should be encouraged to de-allocate greenfield sites whose development can no longer be supported, unless doing so would lead to the development of a more environmentally harmful development.

Local planning authorities could consider the use of Compulsory Purchase Orders when allocated sites are not coming forward for land, particularly for brownfield sites.

[Note that the topics explicitly covered in this question are covered in some of the sub-paras of DNPPF 118 and part of 120, while other issues are covered in the remainder of those same paragraphs. Q26 again applies to issues pepper-potted through the section. This has made responding to these two questions and the subsequent catch-all of Q27 difficult to manage, and probably equally difficult for MHCLG officials to follow.]

Question 26

Do you agree with the proposed approach to employing minimum density standards where there is a shortage of land for meeting identified housing needs?

Yes

Please enter your comments here

Yes.

Increasing urban density is an important way to deliver new homes and avoid encroachment of the countryside - a key indicator under the UN Sustainable Development Goals. It is important that land is not wasted in any instance, not just where there is a shortage of land for meeting identified housing needs in order to ensure that plans look beyond their plan period and provide

for future generations. The **carbon footprint per capita is much less** in modern well-designed **higher density development** than low density development. High density creates an opportunity for eco-developments to lead the way in good design. For example, the Oxford suburb of Jericho has achieved high density development at the same time as being an incredibly attractive place to live. This could also help to make affordable housing more viable in areas of high land value.

Average density of development is currently shockingly low and leads to unnecessary greenfield landtake. We therefore, support the idea that an uplift to densities of residential development should be sought, in line with considerations in DNPPF 122.

It is imperative, however, that a drive to higher density does not compromise living standards and the quality of design of neighbourhoods and groups of buildings; nor should it threaten valued local open spaces. DNPPF 123c should be amended to clarify that LPAs should only be flexible in terms of local development management standards (such as separation distances and overlooking/privacy guidelines) applied within the development site, and not to the relationship with existing neighbouring properties or to standards prescribed in building regulations.

Development should **reflect the character of the area** and not come at a cost of creating an attractive place to live. In particular, appropriate levels of density that create good places in which to live, rarely involve high-rise (above 5-8 storeys); other than in the centres of the largest cities, it is usually possible to achieve better use of land through mid-rise than high-rise, and the latter should generally be avoided. There may be situations where lower density housing is more appropriate, particularly in more remote rural areas or where harm could be done to the setting of heritage buildings, conservation areas, or the openness of the Green Belt. However, there are few, if any, circumstances where a density of much less than 30 homes per hectare should be considered appropriate, and most historic village centres, even in protected landscapes, were built at significantly higher densities than these.

DNPPF 123a currently places too much emphasis on the quantity of any type of house. This should be revised to make it clear that plans and policies to optimise the use of land in their area and meet the range of housing needs that have been identified.

The definition of high densities is unclear as it lacks a figure. CPRE appreciate that setting a minimum or recommended figure could be counterproductive as it will vary depending on the area. Therefore, we suggest that **guidance on minimum density standards** should be produced with recommendations **for different area types**. This would avoid ambiguity and potential conflicts, particularly with regard to justifications for releasing Green Belt land.

Question 27

Do you have any other comments on the text of Chapter 11?

General comments (DNPPF 117, 118, 119)

DNPPF 117 should include a direct reference to sustainable development and the sustainable development goals, in particular the need to reduce land take. Please see our comments in relation to Question 2 for more information.

DNPPF 118c should explicitly reference the value of small brownfield sites in settlements.

Brownfield first approach

Whilst we support the strengthening of the wording encouraging the reuse of suitable brownfield land, it still **does not represent a brownfield first policy**. The government already agrees that a sequential approach is appropriate for retail and town centre uses, but this approach should be adopted more widely. In order to make this a reality, the government should empower local authorities to refuse greenfield development where there is a suitable brownfield site nearby.

With an average of 2.7 years housing land supply in each local authority on deliverable and suitable brownfield sites (*State of Brownfield*, CPRE, 2018), this is a valuable resource that should be genuinely prioritised.

Previously developed land (DNPPF 117)

In footnote 35 there should be reference made to the suitability of sites. CPRE suggests using the requirements of 'suitable' sites used for the brownfield registers (*The Town and Country Planning (Brownfield Land Register) Regulations 2017*); namely regarding preventing adverse impacts on the natural environment, the local built environment, in particular heritage assets, and local amenities.

The different types of previously developed land should be recognised within its definition in the glossary.

Brownfield registers

The legislation and associated planning practice guidance on brownfield land registers should be updated to incorporate the changes within the DNPPF. This should include:

- The removal of the site size threshold to fully encourage the inclusion of small sites on the register.
- Encouragement for local authorities to use an urban capacity approach to identifying opportunities to make use of under-utilised brownfield land, which may still be in use.
- A requirement for local authorities to be proactive in identifying suitable brownfield land.

Net environmental gain (DNPPF 118a)

DNPPF 118a refers to 'taking opportunities to achieve net environmental gains – such as developments that would enable new habitat creation or improve public access'. CPRE agrees that the existing situation needs improvement - there is currently an inconsistent approach to offsetting environmental damage by developers, and the enforcement of any planning conditions by local authorities. If the new 'net environmental gain' approach is mandatory it could improve this situation, depending upon the exact design of the scheme.

It must work within the well-established **mitigation hierarchy** - offsetting damage should be an absolute last resort after all attempts have been exhausted to avoid, mitigate and then finally compensate for damage to habitats and landscape. Previous biodiversity offsetting approaches have lacked understanding of the complexity of natural systems, assuming that all environmental assets are quantifiable and replaceable. This is not the case.

A net gain approach should ensure that different assets are not traded off against one another. The current wording of the draft does not do this: the addition of 'such as developments that would enable new habitat creation or improve public access' fails to recognise the potential loss of other natural capital functions.

A further risk of 'net gain' is that, if funded by developers then they could use the 'viability' argument to justify providing less affordable housing due to increased costs of environmental net gain or to evade delivering net gains at all.

This policy should not be designed so that developers simply pay local planning authorities to create the environmental net gains for them. This would give already pressured local planning authorities heavier workloads, which would likely lead to environmental net gains not being delivered in an effective and timely way. It is essential that net gains are integrated into development proposals and is not seen as an add on. If it is designed as a requirement for developers to do, developers should only in very limited circumstances be able to use commuted sums in lieu (see our comments on commuted sums in the CPRE response to Q14).

Functions of undeveloped land (DNPPF 118b)

DNPPF 118b should be strengthened to reflect the multiple functions of 'most', not just 'some', undeveloped land. 70% of the land surface area in England is farmland and used for food production, which is vital to prevent increased reliance on imports as our population increases, as well as often providing other important functions. Undeveloped land stores carbon, filters and stores water, supports flood management, is a store of biodiversity in the soil and underpins landscape. Many of these functions are critical to ecosystem function and the services we derive from nature. This paragraph should be strengthened to recognise that undeveloped land is an

important *de facto* store of natural capital, unless it has been substantially modified by human activity, for example mineral extraction. Suggested wording is below:

b) recognise and give weight to the multiple functions that most undeveloped land performs, such as habitat for wildlife, recreation, flood risk mitigation, water storage and filtration, cooling/shading, carbon storage and/or food production.

Use of airspace/PDR (DNPPF 118e)

The use of airspace can be an important means to increase density. However, such opportunities should be based on need, for example an identified need for larger family homes or new flats and protecting local character. They should not be solely used as an excuse to create more expensive homes. Local authorities should therefore be able to refuse applications along these lines that do not help to meet identified needs. However, as noted in our response to Question 15, local communities should be given control over such developments, rather than through the use of permitted development rights. Suggested wording to include this: ‘allow upward extensions **that meet locally identified housing needs**, where the development would be consistent with the prevailing height and form of neighbouring properties and the overall street scene (including complying with any local design policies and standards), is well designed **and protects and enhances local character**’.

Proactive approach (DNPPF 119)

We are pleased to see that the government is encouraging local authorities to take a proactive approach in identifying and helping to bring forward sites for development as we called for in *Unlocking Potential* (CPRE, 2018). Further guidance could support the engagement of local communities, for example through Neighbourhood Planning Groups.

Density (DNPPF 122)

We welcome the inclusion of the availability and capacity of infrastructure and services; the desirability of maintaining character and the importance of securing well-designed places as considerations in making efficient use of land. It should be clear that infrastructure encompasses green infrastructure too.

Rejecting inefficient use of land (DNPPF 123c)

We are also pleased to see that councils are empowered to say no to development that fails to meet efficient use of land. This proposal should ensure that local authorities are empowered to say no to greenfield development, where there is a suitable alternative brownfield site nearby (to deliver a genuine brownfield first policy). However, the NPPF’s culture of setting high targets and then disempowering councils when targets are not met is likely to undermine the good intentions of this policy.

Chapter 12 : Achieving well-designed places

Question 28

Do you have any comments on the changes of policy in Chapter 12 that have not already been consulted on?

CPRE largely welcomes the proposed text in Chapter 12. However, as a whole our perception is that the quality of design in new housing development has significantly deteriorated since the original NPPF came into force in 2012. We would recommend that the final version of Chapter 12 is more strongly worded and in particular states that: (i) the Secretary of State will be prepared to use his powers of call-in to support refusals of poorly designed proposals; and (ii) the use of design review is to be encouraged for major housing developments.

The NPPF's culture of setting high targets and then disempowering councils when targets are not met is likely to undermine the good intentions of this policy.

Question 29

Do you have any other comments on the text of Chapter 12?

No.

Chapter 13: Protecting the Green Belt

Question 30

Do you agree with the proposed changes to enable greater use of brownfield land for housing in the Green Belt, and to provide for the other forms of development that are 'not inappropriate' in the Green Belt?

No

Please enter your comments here

No.

CPRE recommends that the final NPPF makes clearer that land in the Green Belt is generally a poor location for major new housing development. We are aware of research done by some planning consultancies and others which typically makes claims that it is possible to build 1 million new homes on Green Belt land near train stations around London. Such claims do not stand up to scrutiny, because the researchers have failed to factor in (i) important environmental benefits such as public footpaths on Green Belt land that they suggest can be released, (ii) the need for additional development (and resulting Green Belt loss) to provide new social infrastructure such as schools, play areas and roads to service the major housing development they advocate, and also (iii) the particular problems of generating additional car travel as a result of developing Green Belt sites, even when they are close to train stations (See RTPI, *Building in the Green Belt?*, August 2015 and CPRE London, *Driving in Circles*, February 2018).

The proposed test in DNPPF 136 is likely in many parts of the country (especially in cases where Green Belts straddle a range of authorities) to lead to Green Belt land being released without proper consideration of harm to the fundamental purpose of preventing sprawl by keeping Green Belt land permanently open. DNPPF 136 should be strengthened so that harm to the Green Belt is properly considered in preparing strategic plans and land is only released where both (i) the DNPPF 136 tests are met and (ii) there are exceptional circumstances that clearly outweigh the harm to the Green Belt on the sites being proposed for release.

CPRE notes the proposal in DNPPF 137 to 'give first consideration' to land that is either brownfield and/or well-served by public transport when land is released from the Green Belt. We recommend that support should only be given to releasing land where it can meet both conditions. There are likely to be many cases where encouragement for the release of *greenfield* Green Belt land near train stations, for example, would encourage the loss of land that is important in terms of Green Belt purposes, particularly those preventing sprawl and coalescence.

Conversely, many brownfield sites in the Green Belt are in relatively remote and unsustainable locations with poor access and infrastructure.

CPRE recommends that DNPPF143 should be altered to state that an an 'unmet need for housing or employment land is unlikely to constitute exceptional circumstances for removal of land from the Green Belt.'

CPRE recommends that DNPPF 144g on re-using previously developed land with Green Belt harm should only apply where the development is primarily of affordable housing for local needs, rather than merely 'contribute' as in the current draft.

CPRE does not believe that the changes proposed in DNPPF 144b or DNPPF 145e relating to changes of use are adequate to protect the permanently open qualities that Green Belt land should have, especially as they would allow the construction of new buildings associated with the change of use. CPRE recommends that such changes of use should only be seen as 'not inappropriate' if they both meet the proposed Green Belt policy tests and also include provision for increased public access, such as the provision of a new right of way if the facilities are not intended for use by the general public, or some other form of environmental gain such as the retention and improvement of wildlife habitat. It is often possible to provide rights of way alongside or adjacent to recreational facilities, cemeteries or allotments.

Question 31

Do you have any other comments on the text of Chapter 13?

Yes.

CPRE recommends that the final NPPF retains the critical references made in the draft to the need for Green Belts to be permanently open. We also believe that a number of other changes are critically important if the Government's pledge to maintain Green Belt protection is to be fulfilled:

Strategic plans should be clear, and be based on clear evidence, about the general locations where Green Belt boundaries can, and cannot, be altered with little or no harm to the Green Belt, rather than simply establishing a general need. This cannot be left to neighbourhood plans though the current draft suggests this.

It should be made clear, in addition to the text of DNPPF 136a, that suitable brownfield sites should be prioritised for investment and development over non-brownfield Green Belt sites (see response to Question 14 above). In this respect it is particularly important that brownfield sites should be normally seen as part of the 'deliverable' 5 year supply. Without this there is a danger of creating a perverse incentive to allocate greenfield Green Belt sites on the basis that housebuilders and landowners can argue that they are more 'deliverable.'

DNPPF 138e should be altered to clarify that, once set, boundaries should not be altered again *during* the plan period as well as at the end of it. This is important given that local authorities are now required in law to review plans every 5 years and that plan periods are every 15 years.

DNPPF 143 should also include the statement, currently set out in the Planning Practice Guidance, that unmet need for housing or employment land is unlikely to constitute very special circumstances.

Chapter 14: Meeting the challenge of climate change, flooding and coastal change

Question 32

Do you have any comments on the text of Chapter 14?

Yes.

CPRE expresses severe concern that the revised NPPF weakens the reference to the UK Climate Change Act 2008 in DNPPF footnote 39. Changing the obligation on local authorities to adopt plans and policies 'in line with the objectives and provisions of the Climate Change Act 2008' to a requirement to adopt plans that are 'within the context of the Climate Change Act 2008' is a serious downgrading of responsibilities at a time when local authorities need greater clarity on their climate change obligations. At the very least, the revised NPPF should maintain the previous wording, or strengthen its importance by placing it within the main text. Until this deeply concerning change is reversed, CPRE cannot endorse the text of Chapter 14 as it currently stands.

We do, however, welcome certain changes, with caveats.

CPRE welcomes the inclusion in DNPPF 148 on ensuring the resilience of communities and infrastructure to climate change, and particularly a recognition of the risks of adverse temperature rises. We welcome the reference to the cumulative impacts of flood risk and a focus on flooding from a wider regional or national outlook (DNPPF 155). However, there is a continued need for development to be focused away from flood prone areas, and the NPPF must ensure that wording is strong enough to produce the right outcomes. CPRE recommends that development should be avoided in areas at 'significant' risk from flooding, and not just of the highest risk, as DNPPF 154 currently states. We also recommend that the revised NPPF reflects Planning Policy Statement 1 in taking a precautionary approach to development that could face increasing risks (e.g. flooding) from climate change. Rather than permitting development in flood-prone areas under certain qualifications, the presumption should be against this development except in exceptional circumstances.

Under such an approach, development should only be considered for medium flood risk areas or below, with medium risk areas subject to the sequential/exception tests. Any developments above medium risk should not be permitted, especially as the guidance on acceptable flood risk above this level is ambiguous at best. Flood Risk Assessments should be undertaken not only for development on sites of higher flood risk, but also for any development in Flood Zone 1 when the site is 1 hectare or more, and for land which has been identified by the Environment Agency as having critical drainage problems. FRAs should be far more detailed (being able to quantifiably demonstrate that any new development is sustainable, at low flood risk, and safe for its lifetime) before being accepted, and should apply at plan allocation stage as well as application stage. FRAs must also include similar measures and procedures for groundwater risks as well as coastal, fluvial or surface water flooding, before they are accepted at plan-making stage.

The call for all major developments to incorporate Sustainable Urban Drainage Systems (SuDS) (DNPPF 163c) is an important provision, though there should be a clear indication of the difference between normal SuDS and green SuDS.

Particularly on the new provisions for wind energy development (DNPPF 153b and footnote 40), CPRE believes this is a better reflection of how communities should have the ultimate say on permitting new infrastructure development. We believe that this provision should be included for all energy-related infrastructure developments, rather than simply those the government has made political commitments to address.

Aside from these recommendations, we have several comments on the general need for local plan-making and decision-making to be more proactive in addressing climate change, and how the NPPF should reflect this.

The 2016 TCPA report, [Planning for the Climate Challenge](#), highlighted severe shortcomings in local authority delivery of climate change requirements, noting that since the introduction of the NPPF, climate change has been deprioritised further in local decision-making. The reasons for this deprioritisation are inconsistencies across the planning framework, mixed messages from government, and planning inspectors approving inadequate local plans.

Action requires a key signal from government that climate change is a priority for the planning system, and should run as a core consideration throughout the NPPF. This means that decisions are not made in isolation of climate change requirements, whether that be approval of new fossil fuel infrastructure, the prioritisation of unsustainable travel modes, or the permitting of development that creates urban sprawl. It would also imply that the duty for local authorities to cooperate must also apply to climate change, which is at heart a cross-boundary issue.

There is a wider issue of local authority funding to be able to deliver on their climate change mitigation and adaptation commitments, which is outside the scope of this consultation yet is a key factor that will determine the ability for the NPPF's objectives to be met.

Ultimately, the revised NPPF should serve to clarify what the legal climate change requirements on local planning authorities are, as its supposed purpose is to incorporate planning obligations into one document. This requires inclusion of the 2004 Planning and Compulsory Purchase Act (Section 19) obligations for development plans to include policies that contribute to the mitigation and adaptation of climate change, and the UK Climate Change Act 2008 requirements for local authorities to contribute to the UK's compliance with its legal carbon budgets. Indeed, the climate change minister Claire Perry has only [recently stated](#) that the Clean Growth Strategy can only be delivered at the local level. If this is to be realised, LPA's contribution to and compliance with the carbon budgets must be traceable and regularly reported on, otherwise it is unlikely the government will be able to identify underperforming authorities and ensure commitments are met.

The NPPF's requirement for planning to secure 'radical reductions in Greenhouse Gas emissions' can only be achieved if planning policy spells out, and monitors, how local authorities are delivering, and adequately resources them to be able to comply. Currently the revised text seeks to downgrade the already weak and ambiguous requirements on local authorities, setting a tone that in no way reflects the current direction of government on environmental leadership. Rhetoric must be met with substantive policy change, or risk remaining solely empty statements of intent.

Question 33

Does paragraph 149b need any further amendment to reflect the ambitions in the Clean Growth Strategy to reduce emissions from building?

Yes

Yes.

Ambitions in the Clean Growth Strategy should be reflected in the NPPF as there is an important need for new housing to be developed to high standards, resilient to climate change and in compliance with mitigation requirements.

Currently, [direct emissions from the building sector are rising](#), leaving a widening policy gap if the UK is to meet its fourth and fifth carbon budgets. The loss of the Zero Carbon Homes standard has made targets even more difficult to achieve, and there has since been no initiative to fill the gap it left behind. Local authorities could have an important role to play in setting ambitious efficiency standards for new homes, and in line with the [climate change minister's recent statement](#), they should be empowered to do so.

We recognise that LPAs individually setting standards for energy and carbon emissions may be an inefficient way of driving up such standards, but the revised NPPF's failure to encourage such activity urgently needs to be replaced with a commitment to drive up building performance through the building regulations, programmes to retrofit existing buildings, and regulation of landlords.

Chapter 15: Conserving and enhancing the natural environment

Question 34

Do you agree with the approach to clarifying and strengthening protection for areas of particular environmental importance in the context of the 25 Year Environment Plan and national infrastructure requirements, including the level of protection for ancient woodland and aged or veteran trees?

No

Please enter your comments here

No. CPRE has concerns about many of the proposed changes in Chapter 15 of the revised NPPF. This includes the approach to valued landscapes, clarifying protection for National Parks and AONBs and their settings, strengthening NPPF protection for Best & Most Versatile (BMV) land and tackling light pollution from existing development.

DNPPF 168 sets out a range of ways that 'planning policies and decisions should contribute to and enhance the natural and local environment'. The selection of matters for inclusion in this policy (while welcome), and their arrangement within its sub-clauses, is somewhat random.

The policy now includes one of the core planning principles in the previous NPPF - '**recognise the intrinsic character and beauty of the countryside**' (part of DNPPF 168b). **This is an important principle and should be included in a statement of core principles**, either in Chapter 2 on

Achieving Sustainable Development or in the Introduction (see also our response to Q3). Whether or not this is included in the core principles, recognising the intrinsic character and beauty of the countryside should be a separate criterion from natural capital (see also below).

Development can be planned in ways which enhance natural capital without excessive costs, as demonstrated by the Wildlife Trusts' 'Homes for people and wildlife; a vision for the future' research. This demonstrates that building houses on countryside sites and 'conserving and enhancing the natural environment' need not be mutually exclusive - and that nature can be integrated in to the built environment to the benefit of residents and public in general. We are concerned that DNPPF 168 seems to be divorced from DNPPF 11, footnote 7 – which could mean that under DNPPF 11 all the intentions set out under DNPPF 168 would be affected if there is a 'tilted balance.' This could risk weakening these important policies. There should also be a requirement within DNPPF 168 to ensure that up to date information about the natural environment is considered in planning policies and decisions.

'Valued landscapes' (DNPPF 168a)

DNPPF 168a refers to protecting and enhancing valued landscapes, which is a continuation of the previous NPPF policy (as well as geological sites and soils). The term 'valued landscapes' has led to much debate e.g. at planning inquiries. Some councils have used Landscape Character Assessment to identify valued landscapes but this has not been the case for all councils. This had led to a **lack of clarity about what is a valued landscape**, leading to case law becoming the only guidance. A recent example is a Planning Inspector at a planning appeal in Essex stating that a valued landscape is 'The value of the landscape is to be interpreted as that placed on it by people', namely those who can view the site from publicly accessible vantage points, including public rights of way. It also states 'It has to be seen in the wider context with which it is viewed.'

Many areas of countryside are understandably valued by local residents, but to be considered 'valued' in the context of the NPPF, there needs to be something 'special' or out of the ordinary that can be defined. **Government should consider developing guidance on 'valued landscape'** which could include, for example, areas that have been proposed as potential extensions to existing AONBs; and the settings of market towns and villages just outside AONBs which are often indistinguishable in landscape quality from those within the AONB.

We welcome new wording on DNPPF 168a which states: 'in a manner commensurate with their statutory status or identified quality'. Yet we are **concerned that for valued local landscapes this will be a 'potluck' policy**. The coverage of Landscape Character Assessments (LCA) is not comprehensive across the country and so there may not be a consistent way to identify quality. For example, if an application is made to develop in a valued local landscape there may be insufficient time to comprehensively identify the qualities of that landscape. This should be clarified in the NPPG Natural Environment.

The revised NPPF should reintroduce a policy which recognises the importance of existing local landscape designations (which was last included in Planning Policy Statement 7 'Sustainable Development in Rural Areas'). Some councils continue to use local designations, such as Areas of Great Landscape Value in Cornwall and Surrey. Reintroducing support for these designations in the NPPF would be a useful way to proactively identify the qualities of valued landscapes.

Best and Most Versatile land (DNPPF 168b) [and Soils (DNPPF 168a)]

Currently Best and Most Versatile (BMV) Land is not well-protected by the NPPF. Defra's own research published prior to the NPPF showed this policy was ranked in the bottom two of a range of planning issues and the presence of BMV land did not represent a 'veto parameter'. The Government's Natural Environment White Paper *The Natural Choice* in June 2011 stated: "We want the planning system to contribute to our objective (...) to protect our best and most versatile agricultural land". Despite this the NPPF went on to weaken policy on BMV land. The Defra research is consistent with evidence since the NPPF from areas such as Kent or West Lancashire, where the area of BMV land is much higher than the national average. West Lancashire and Fylde Districts have seen many instances of development of grade 1 and 2

land. In Kent the proposed scale of development means BMV land will have to be sacrificed. The recently adopted Maidstone local plan allocated 52% of its housing provision on sites classified as BMV land and 37% on the two highest grades, 1 and 2, of agricultural land. ■

CPRE stresses that current policy for all BMV land in paragraph 112 of the existing NPPF should be strengthened to recognise the special and irreplaceable natural capital of scarce high quality soils, but particularly of the higher grades 1 and 2 of BMV agricultural land. These grades represent around 21% of all farmland in England. They are a critical resource for the domestic production of a wide range of horticultural and agricultural crops, including more demanding crops such as winter harvested root vegetables, that cannot be produced on a field scale on poorer soils. As such they are a resource of long term strategic importance to national food supply. Rather than simply 'recognising the benefits' of BMV land this status should be reflected in a higher level of protection than currently given in the DNPPF 168(b). Such land should be developed only in exceptional circumstances, and therefore great weight should be attached to the natural capital value of the highest grades.

Text in NPPF 112 should be retained in a single paragraph with revised content as suggested below and in the main text rather than split across DNPPF 168 and 169 footnote 45. Government should provide clear guidance on how local planning authorities should assess and weight natural capital consistently as this is a very important but developing tool in effective policy making.

Suggested wording of new DNPPF clauses:

b1) recognising the intrinsic character and beauty of the countryside;

b2) taking into account the ecosystem services and natural capital of agricultural and other undeveloped land. Where significant development of agricultural land is unavoidable, local planning authorities should seek to use areas of lower natural capital. Great weight should be given to the natural capital value of soil quality for food production on land in Agricultural Land Classification (ALC) grades 1 and 2.

With reference to DNPPF 168b: we welcome recognition of the natural capital benefits of best and most versatile agricultural land. This gives due recognition to the importance of such land particularly for production of crops that cannot be grown on lower ALC grades. However, other farmland has natural capital value for food production, though for a narrower range of crops and livestock. Importantly, such land, particularly in uplands, can have high natural capital value often delivering a number of other ecosystem services: carbon storage, water storage/flood management and filtration and semi-natural habitat supporting important wildlife. The ecosystem services and natural capital of all agricultural land deserves to be recognised in the revised NPPF and this would reflect the Government's ambition as set out in the 25 Year Environment Plan to 'set gold standards in protecting and growing natural capital – leading the world in using this approach as a tool in decision-making' (25 Year Environment Plan, 2018, p.9).

In addition, DNPPF 168b replaces NPPF 109 bullet 2 which referred to 'recognising the wider benefits of ecosystem services' [provided by the countryside] with 'recognising (...) the wider benefits from natural capital'. The loss of NPPF 109 bullet on 'ecosystem services' will undermine important work in embedding ecosystem services thinking in planning. The concept of ecosystem services is comparatively well-developed compared to natural capital analysis. See for example the detailed evidence and analysis in Natural England's National Character Areas. The words 'ecosystem services' should replace 'benefits' in DNPPF 168b. As ecosystem services analysis includes the value of food, fibre and other production from farmland as well as other environmental benefits, the words 'the economic and other benefits of the' BMV land are unnecessary duplication and should be removed. To be consistent with our comments under DNPPF 118b above reference to other undeveloped land should be included here also.

DNPPF 168b should be rewritten as:

b3) recognising the wider ecosystem services from natural capital, including best and most versatile land and other agricultural land, other undeveloped land, trees and woodland;

In addition, the definition of 'ecosystem services' from the Glossary in NPPF should be reinstated in DNPPF. There are two references to 'natural capital' in DNPPF but no definition in the Glossary. The Natural Capital Committee [definition of natural capital](#) as 'those elements of the natural environment which provide valuable goods and services to people, such as the stock of forests, water, land, minerals and oceans' should be inserted.

Ancient woodland/trees

We also welcome increased protection of ancient woodland, aged and veteran trees through their inclusion within DNPPF footnote 7. However, we are concerned by the decoupling of aged and veteran trees from Ancient Woodland in DNPPF 173c. Both of these habitats should be classified as irreplaceable.

Guidance is also needed to clarify the definition of infrastructure projects, to exclude housing development.

Light pollution

The 25 Year Environment Plan has a commitment to manage light pollution. We suggest that DNPPF 168e should include light pollution. Our recommended additional text is shown in bold: 'Preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water, noise **or light pollution** or land instability.'

We welcome DNPPF 169 which states that Plans 'should plan for the enhancement of natural capital at a catchment or landscape scale across local authority boundaries.' This will help embed a core theme of the 25 Year Plan in local policy making.

National Parks and AONBs

The wording in the opening sentence of DNPPF 170 has important text removed, (shown in capitals below):

Great weight should be given to conserving landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty, WHICH HAVE THE HIGHEST STATUS OF PROTECTION IN RELATION TO LANDSCAPE AND SCENIC BEAUTY.

It is crucial that the wording 'have the highest status of protection' remains in the NPPF, as not having that clarity could potentially open up debates about the level of planning protection.

The opening sentence of DNPPF 170 should be rewritten as:

'Great weight should be given to conserving the landscape and scenic beauty of National Parks, the Broads and Areas of Outstanding Natural Beauty which should be given the highest level of protection in the planning system.'

We believe that DNPPF 170 second sentence should be revised as shown in bold:

'The conservation of wildlife and cultural heritage are also important considerations in these areas, and should be given great weight in National Parks, the Broads **and Areas of Outstanding Natural Beauty**'

The paragraph does have additional new wording: '*The scale and extent of development within designated areas should be limited*'. This is welcome, but 'scale' and 'extent' is likely to be argued by developers e.g. at appeal. Unless Government issues updated guidance which gives a steer on these terms it could potentially be defined by case law in the coming years.

CPRE believes that the Major Development Test should apply in the settings of designated landscapes. This issue is not addressed in the draft NPPF despite the fact there are several references in Chapter 16 on the need to consider the impact of development on the setting of heritage assets. The same approach must be taken for our nationally important landscape heritage; National Parks and AONBs. In order to ensure that the settings of designated landscapes are appropriately protected, we recommend the addition of the following sentence in DNPPF 170: '*Local planning authorities should set criteria based policies against which proposals for any development in – and within the setting of – these protected landscapes will be judged.*'

See Annex 2 Glossary for our comments on the definition of 'major development'. It is important to note that the cumulative effect of several small developments, under ten units, could be very

damaging in a National Park or AONB. We have suggested additional wording to the definition of major development in Annex 2.

The Government must **issue more guidance on how the major development test should be applied** by providing good practice examples, helping to define term such as 'great weight', 'exceptional circumstances' (e.g. to clarify that this does not include meeting OAN), 'public interest' (there should be a very high and carefully specified requirement for this), and 'national considerations'. CPRE suggests this should be incorporated into the Natural Environment section of the National Planning Practice Guidance.

Habitats and biodiversity

DNPPF 173 should clearly state the requirement for 'proven' mitigation and up to date evidence. It is hard to see any circumstance where DNPPF 173b would come into effect in terms of exceptions for building within or next to SSSIs.

DNPPF 172b should include clear reference to the importance of hedgerows. The text could be revised as shown in bold: 'promote the conservation, restoration and re-creation of priority habitats, ecological networks **including established hedgerows** and the protection etc...'.

DNPPF 173c footnote 49 undermines the protection for ancient woodland, we would like to see it removed, particularly the section 'where the public benefit would clearly outweigh the loss or deterioration of habitat' given the fact that ancient woodland is, by definition, irreplaceable. In the same section there is mention of ancient woodland, which is one of the new additions to DNPPF 11 footnote 7, but there is no mention here of the other addition to note 7: aged or veteran trees. This paragraph could be rephrased to say '(such as ancient woodland, **aged or veteran trees, or established hedgerows**)'.

Question 35

Do you have any other comments on the text of Chapter 15?

Tranquillity

We welcome inclusion of two of three key aims of the National Noise Statement for England in DNPPF 178a. However, we believe the third key aim to 'where possible, contribute to the improvement of health and quality of life' would improve DNPPF 178 and should be included. (Defra, National Noise Policy Statement for England, March 2010, p4 1.7)

DNPPF 178 **should apply to changes to existing developments** that would impact on noise, tranquillity and light pollution and , not only new development.

DNPPF 178b states that, in relation to new development, planning policies and decisions should 'identify and protect tranquil areas which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for that reason'. The challenge is to provide an up to date measure of tranquillity (CPRE's maps are 2006) so that it can inform planning policies and decisions. There also needs to be new, detailed planning guidance which includes an agreed definition of tranquillity; we suggest: *The quality of calm experienced in places with mainly natural features and activities, free from disturbance from man-made ones*. This could be added to the DNPPF Glossary.

Light pollution

The continuation of the light pollution policy in DNPPF 178c is welcomed although this **should also include changes to lighting schemes of existing developments**, not only new development. The policy could also be amended to address relative darkness, for example, where an isolated

industrial site would cause light pollution in an area that is relatively dark compared to the surroundings.

Chapter 16: Conserving and enhancing the historic environment

Question 36

Do you have any comments on the text of Chapter 16?

Yes.

It is not clear to which assets 'these assets' in the second sentence of DNPPF 182 refers - all heritage assets, or just those 'of the highest significance'. We consider it to be the former, and suggest that for clarity this sentence begins: 'All heritage assets are an irreplaceable resource...'

While it is recognised that the first sentence of DNPPF 184 replicates existing para 127, this paragraph may be unnecessary in the NPPF, as it repeats policy and guidance available elsewhere.

As a result of the first sentence, the second sentence of DNPPF 184 appears to confine the requirement to publish information about the historic environment to the process of designating conservation areas. It would be better to present this requirement separately.

DNPPF 188 would be improved, with regard to the importance of the setting of heritage assets, in line with considerations in the preceding paragraphs, by re-wording the opening line as: 'In determining applications affecting heritage assets and their setting, local planning authorities should take account of: (etc.)'.

We strongly support the clarification in DNPPF 189 regarding the degree of potential harm. The explicit recognition that harm to a heritage asset is contrary to the statutory duty under Section 66 of the Listed Buildings and Conservation Areas Act 1990 is long overdue.

The qualification 'which are of the highest significance' should be reinstated into DNPPF 190b, between 'World Heritage Sites,' and 'should be wholly exceptional'.

Chapter 17: Facilitating the sustainable use of minerals

Question 37

Do you have any comments on the changes of policy in Chapter 17, or on any other aspects of the text in this chapter?

Yes.

General Comments

The main comments we have in this chapter are in regard to the provisions relating to unconventional hydrocarbon extraction, and in particular the **oil and gas extraction method of fracking**. We endorse the North Yorkshire Joint Minerals and Waste Plan definition of fracking as 'the fracturing of rock regardless of the volume of fracture fluid used', which encapsulates additional unconventional (and potentially more harmful) techniques planned on a commercial scale such as acidisation. When we refer to fracking in this question, it is with regards to this broader definition.

Our focus on fracking in this chapter is due to the **revised NPPF's strengthening of the case for this unsustainable method of energy extraction**, which has grave impacts for the countryside. We do however recommend that the presumption against applications for coal extraction in DNPPF 206 is strengthened, as coal is the most polluting of all fossil fuels. We would argue - using the points below - that **the current presumption against coal extraction should be applied to all new fossil fuel-related planning applications**.

In addition to the current wording which disproportionately favours the approval of fracking applications (NPPF 144), the consultation guidelines claim that the additional provisions in Chapter 17 (primarily in DNPPF 204) are to reflect the 'national need' to explore and develop our shale gas and oil resources (as encompassed in the [2015 Written Ministerial Statement](#) on shale gas and oil). This is obviously of significant concern, as it could put planning applications in further jeopardy by shrinking the voice of local communities in a debate centred on national need. As a result, we call on the government to not only reverse these changes, but to make planning policy *actually* clearer by **incorporating the relevant social and environmental obligations** explicitly in the minerals extraction section of the NPPF. We set out these recommendations below.

Detailed Comments

There is a substantial difference between stating something can be permitted unless certain conditions are breached, and saying something should not be permitted unless certain qualifications are met. For that reason, CPRE called for a [halt on fracking](#) in June 2017, stating that hydraulic fracturing should not be permitted unless it can be clearly demonstrated that fracking would:

- help secure the radical reductions in carbon emissions required to comply with planning policy and meet legally binding climate change targets;
- not lead to unacceptable cumulative harm, whether for particular landscapes or on the English countryside as a whole, and
- be carefully controlled by effective systems of regulation and democratic planning, which are adequately resourced at both local and national levels.

Since we adopted this policy, recent developments have given further weight to this precautionary approach. They stand against the proposed strengthening of the case for fracking in the revised NPPF, as we outline below under the three key issues.

Climate change commitments

In the last six months, the government has published its Clean Growth Strategy and 25 Year Environment Plan, both promising significant improvement in the state of our environment and proposing substantive measures to deliver on these promises. As it stands, policies proposed in the Clean Growth Strategy are not sufficient to meet the UK's fifth carbon budget under the UK Climate Change Act, and as a result the government needs to find new ways to address this shortfall or face legal action and reputational damage.

Planning decisions should not be taken in isolation. The Committee on Climate Change have stated that commercial-scale fracking is incompatible with the UK's carbon budgets unless three tests can be met, one of which includes finding other areas of the economy where more emissions can be reduced. At a time when the UK is struggling to meet its current climate change targets, and is facing [legal pressure](#) to improve these targets to be in line with its international obligations under the Paris Agreement, a robust pursuit of an indigenous unconventional fossil fuel industry is difficult to justify. Yet proposals in the NPPF further strengthen the case for unconventional oil

and gas extraction without adding much needed qualifications on the climate-related impact of the activity if it was permitted.

This highlights a severe lack of integrated thinking on the government's behalf – Minerals Planning Authorities (MPAs) will continue to struggle to make balanced and considered decisions while receiving mixed signals from different areas of policy. While Section 19 of the Planning and Compulsory Purchase Act 2004 obliges local authorities to develop plans that contribute to the mitigation and adaptation of climate change, and the UK Climate Change Act 2008 requires local authorities contribute to meeting carbon budgets, the current NPPF calls on MPAs to give great weight to the benefits of minerals extraction when making decisions over applications. This paragraph alone has been relied on when approving past fracking applications despite legitimate concerns over the climate change impact of the proposal.

Instead of seeking to balance minerals extraction with the government's environmental and climate change commitments, the revised NPPF further strengthens the case for fracking with additional paragraphs reflecting the Written Ministerial Statement (WMS) from September 2015. CPRE's opinion is that the government has yet to demonstrate how fracking would be compliant with legal climate change targets, and thus the NPPF must reflect this in wording. Rather than giving undue weight to an industry which received overwhelming favour under the past coalition government, the current government could and should take this opportunity to reflect their proposed environmental leadership across planning policy. This, above all, requires overt climate change qualifications in the NPPF.

Cumulative harm on landscapes and on the English countryside as a whole

The planning system is based on principles that ultimately deliver the right decisions. For that reason, wording which allows this principle to be infringed should be changed immediately. The NPPF's renewed commitment to protected areas is reassuring, yet current wording (supported by the Infrastructure Act 2015) allows drilling for fracking to occur under depths of 1200m in AONBs and National Parks. If allowed, the ability to frack just outside national parks and underneath them would result in little difference than if fracking were allowed just within them. Particularly when considering the scale of output required for fracking to be commercially viable, the cumulative impact of such developments should be strongly considered. If the borders of our protected areas become lined with hundreds of fracking wells, it goes without saying that their purpose of providing cherished and valuable landscapes to enjoy will be compromised.

As our recent report, [Beauty Betrayed](#), demonstrated, developments in the setting of AONBs and National Parks are sometimes more impactful than development within them, due to the blocking of the view that the designated landscapes are protected to provide. For that reason, allowing drilling to operate just outside of protected areas (at heights of up to 60m) is ultimately against the principle of continued planning protection for these areas. There is a need to integrate all planning policy relating to minerals extraction so MPAs understand their various obligations, and this collated guidance should reaffirm the highest level of protection for designated landscapes by not permitting fracking within them, regardless of depth. At the very least, applications for drilling under AONBs and National Parks should be subject to the major development test, reflecting the different impact they will have to a regular application.

Another wording issue which infringes on the principle of maintaining protected areas is the definition of fracking within the Infrastructure Act 2015. Defining fracking by volume of fluid used is allowing applications for activities similar in practice to fracking such as acidisation, to be accepted in protected areas. For example, a [recent investigation](#) has revealed that 177,000 acres of protected areas in the South East of England are now exposed to oil exploration using acidisation practices that are in many ways potentially [more dangerous and untested than fracking](#), and definitely cannot be defined as conventional activities. Again, the need for the planning system to reflect principles requires a reaffirmed commitment to protected areas from all forms of unconventional oil and gas exploration. We recommend that the NPPF accept the North Yorkshire Joint Minerals and Waste Plan [definition of fracking](#) as 'the fracturing of rock

regardless of the volume of fracture fluid used' to incorporate concerns raised over all unconventional hydrocarbon operations.

Effective systems of regulation and democratic planning, adequately resourced

There are currently a wide range of planning inconsistencies within the NPPF and related government documents that create confusion for those determining applications on minerals extraction. The 'benefits of mineral extraction' that MPAs are to give great weight to have in no place been elaborated upon and continue to remain subject to controversy, meanwhile LPAs are required, as mentioned above, to contribute to climate change mitigation and adaptation when determining planning applications – a seemingly contradictory obligation.

In reality, fracking is a novel industry in the UK with impacts that are difficult to determine and inevitably vary across location. For that reason the merits of fracking should be considered on a case by case basis, weighed up against the environmental obligations, rather than taken as a given for every application. Examining applications on a case by case basis would give a more accurate reflection of the 'benefits' minerals extraction is supposed to deliver. The NPPF should be updated to reflect all of the considerations that need to be incorporated in decision-making, rather than the current situation which fragments obligations and as a result, places most emphasis on the paragraphs within the minerals chapter that attach great weight to minerals extraction. The revised NPPF not only ignores this issue, but builds further upon it by including new paragraphs strengthening the case for minerals extraction without alluding to the environmental obligations that weaken its case and rebalance decision making.

The difficulties MPAs face when weighing up decisions on minerals extraction are not aided by a planning regime that continues to put pressure on 'streamlining' decision-making. If planning is to indeed be democratic and rooted in the opinions of local communities, allowing applications to be appealed on grounds of non-determination after just 16 weeks is clearly contrary to this objective. MPAs need time to weigh up the evidence (often submitted with a delay by the applicant); indeed all decisions made so far on fracking applications have taken between 17 and 83 weeks – demonstrating that those taking longer than 16 weeks are not 'underperforming authorities' but reflective of a common issue MPAs face in determining difficult issues under pressure that the decision will be taken out of their hands.

The government need look no further than the NPPF itself for examples of more democratic provisions for determining applications – the new phrasing of how applications for wind energy development are to be determined states that developments *should not be considered* unless it has been identified as a suitable site in the local plan and can be demonstrated that impacts identified by the local community following consultation 'have been fully addressed and the proposal has their backing'. This is a far better example of communities being able to have the final say on controversial developments, one that CPRE fully endorses.

The regulation of fracking has also been thrown into question as it has come to light that different bodies have overlapping responsibilities and many gaps exist that need addressing. Recent research into the severe risk of fluid spills if fracking is undertaken on a commercial scale need to be addressed, with the Environment Agency adequately resourced, before fracking can go ahead. If confidence is to be had in the English planning system, the case needs to be made how fracking would not harm human health, as the current low opinion on fracking reflects concerns that have so far not been disproven. Finally, if the government is serious about the principles of environmental net gain, sites used for any form of conventional or unconventional fossil fuel extraction should not only be restored to their previous condition, but conditions need to be improved. It is concerning then to see that UKOG already [face a Breach of Conditions Notice \(BCN\)](#) over their failure to restore the Markwells Wood site.

Suggested changes

Ultimately, fracking should only go ahead if these concerns are addressed, as stated in CPRE policy. We recommend that the following changes be made to reflect the far more balanced

approach to minerals extraction we believe would deliver greater confidence in the planning framework and better deliver the sustainable development to which it purports to aspire.

- DNPPF 200a - The deletion from NPPF 143 bullet 1 of the words 'in their area' is unjustified. These words make it clear that a plan's policies are only expected to cover the plan's area even where an MPA has created its policy after co-operation with other affected MPAs.
- DNPPF 200h - Consideration of Best and Most Versatile land has been removed, and it must be retained in the text of the NPPF.
- DNPPF 201 – LPAs should evaluate the benefits of mineral extraction for the economy on a case by case basis, rather than take these benefits as given. These benefits must then be balanced against the environmental and social elements of the proposed application.
- DNPPF 201b - This text should include the climate change impacts of minerals extraction and the treatment, disposal and transport of waste.
- DNPPF 201c - Odours should be included in this list, as they are a recurring issue with oil and gas exploration.
- DNPPF 201e - Bonds or other financial guarantees to underpin planning conditions should only be sought in exceptional circumstances, taking into account any previous breaches of planning approval and conditions, financial instability or risks extending beyond the commitment of the developer. Previous breaches of conditions must outweigh the size of any guarantees offered in the decision making hierarchy.
- DNPPF 204a and 204b – As referred to above, strengthening the case for onshore oil and gas development does not reflect the government's recent commitments to environmental protection, or their legal obligations to mitigate and adapt to climate change. Equally, these paragraphs merge oil and gas exploration together as though the benefits that each provides are the same, which is not true, especially in supporting the transition to a low-carbon economy. CPRE recommends that qualifications be added whereby (i) MPAs should balance the benefits of onshore unconventional oil and gas development with their legal obligations to contribute to UK climate targets and develop policies that mitigate and adapt to climate change, and clearly demonstrate that approval of such developments would not infringe upon these obligations; and (ii) MPAs should plan for the three phases of oil and gas development separately and with appropriate safeguards, acknowledging their consecutive relationship and considering the cumulative impact of each new application approved within and between localities. The local plan should also continue to have primacy over national planning policy.
- DNPPF 205 - The new requirement for MPAs to be satisfied with exploration, extraction and storage operations before approving planning applications on hydrocarbon development is a welcome extension of responsibilities, and must be maintained and implemented in practice. Examples of conditions when applications should not be approved include:
 - When there is any level of flood risk associated with the location.
 - When the operator has not secured permission for wastewater treatment.
 - When the level of transport impacts the rural character of an area, particularly when traffic movements cross through protected areas.
- DNPPF 206 - The current presumption against coal development should be strengthened in line with the UK's ambitions to phase out coal. We agree with related submissions that the NPPF adopt a similar approach to that set out in [Planning Policy Wales draft consultation guidance](#) (paragraph 4.161):

Proposals for opencast, deep-mine development or colliery spoil disposal should not be permitted. Should, in wholly exceptional circumstances, proposals be put forward they would need to demonstrate why they are needed in the context of climate change emissions reductions targets and for reasons of national energy security.

As mentioned before, there is currently no measure through which MPAs can balance their responsibilities in this chapter with those in Chapter 14 (climate change) or Chapter 15 (natural environment), despite the NPPF's requirement to give equal weight to its economic, social and environmental objectives. Furthermore, the national and international consensus over climate change has moved on significantly since the NPPF was first published, and the revised NPPF must work to reflect this. If the final draft maintains the currently revised wording, the NPPF's objective to deliver sustainable development will be wholly unachievable, and will have severe impacts for people, countryside and climate alike.

Question 38

Do you think that planning policy in minerals would be better contained in a separate document?

No

Please enter your comments here

No. A general concern about the NPPF is that it has failed to fully integrate national policy on different aspects of planning practice – see also our comments on chapter 1.

We believe that whether or not minerals guidance is maintained within the NPPF, the guidance must be expanded in detail to include the various social and environmental obligations relating to minerals extraction.

There is a need to collate all the guidance that currently relates to minerals planning policy, including the environmental and climate change duties on local authorities that directly relate to decisions and policies made on minerals extraction. For example, there is no explanation as to how MPAs are supposed to reconcile the generalised promotion of minerals extraction in Chapter 17 of the DNPPF with their duties under Chapter 14 and DNPPF 20f to plan to move towards a low carbon economy.

These existing ambiguities in the NPPF allow for the picking and choosing of different statements to support decisions.

Ultimately, it would only be helpful to have a comprehensive document if it serves the purpose of clarifying the environmental and social objectives of the planning system as equally weighted to the economic objectives. Collated guidance must present the more balanced approach to minerals extraction that reflects the legitimate concerns over environmental impacts. It must also recognise the legal duties imposed on the government that require environmental commitments are incorporated in decisions over activities that would clearly impact on their ability to be met.

If minerals guidance were to be maintained in the NPPF, it should be expanded to reconcile the competing obligations we have referred to above. The details of these obligations should be expanded upon within the PPG, including further guidance on dealing with planning applications for other unconventional activities such as acidisation, so MPAs have all the considerations in front of them when making decisions. Whether in a separate document or within the NPPF, fracking should be explicitly defined as 'the fracturing of rock under hydraulic pressure regardless of the volume of fracture fluid used', following the North Yorkshire Joint Minerals and Waste Plan,

as the current volume-based definition is insufficient to cover the various nuances of unconventional exploration and production.

Question 39

Do you have any views on the utility of national and sub-national guidelines on future aggregates provision?

Yes

Please enter your comments here

Yes.

CPRE agrees with the principle of moving decision-making to the local level, and thus the introduction of the Local Aggregate Assessment process was a welcome change in the NPPF, including the change in approach from 'predict and provide' to 'plan, monitor and manage'.

However, it is very important that the responsibility for aggregates provision is not passed to local authorities without providing the resources and national support required to plan properly for steady supply. For example, some of the information MPAs require for monitoring reserves and resources is no longer collected by government, despite this information being important for future plan-making for minerals and in minimising harm to the environment. Support needs to be strengthened for MPAs dealing with aggregates planning through adequate resourcing and the provision of necessary information, and the environmental impact of new sites must be considered in all decisions, on both a local and national level. In addition, there is a need for national and subregional estimates of need and targets for aggregates, including recycling materials, though implementation should be the responsibility of the MPA.

Transitional arrangements and consequential changes

Question 40

Do you agree with the proposed transitional arrangements?

No

Please enter your comments here

No.

Weight to be given to existing and emerging plans (DNPPF 207-208)

DNPPF 207 should, as the current NPPF does, reinforce the primacy of up-to-date local and neighbourhood plans, the policies of which should be given more weight in determining planning applications than the mere material consideration of the policies in the NPPF. This should also be

clear that the policies of emerging local and neighbourhood plans should be given weight where there is no conflict with the NPPF.

CPRE is concerned that the overall draft of the NPPF fails to give the same support as the current NPPF for maintaining existing planning policies when they are not out of date, other than against an arbitrary standard (see also our response to Q5 above).

In particular, the wording in DNPPF 208 suggests that all individual policies in local plans are automatically trumped by policies in the NPPF just because the NPPF suggests a different approach, even though local policies will have been tailored to specific local circumstances. This is an alarmingly centrist approach that does not accord with case law or with the application of Section 38(6) of the Act. It should be up to the decision maker to determine, in cases where there is a material conflict between the development plan and the NPPF, whether the application of existing development plan policy or the NPPF would lead to the most sustainable outcome for the locality in question. We suggest that the second sentence of DNPPF 208 should be re-worded to read: 'Due weight should be given to them unless there is a clear conflict with the policies in this Framework.'

Transitional arrangements for the presumption in favour of sustainable development and housing delivery test (DNPPF 211-212)

These provisions are apparently intended to provide a transition to the full application of the housing delivery test with regard to local and neighbourhood plans. Along with other aspects of the NPPF these are unnecessarily convoluted and their intentions are almost impenetrable, thereby failing the standards set by this NPPF for local plan policy. The need for both provisions would be obviated should CPRE's recommendations on both the presumption in favour and the housing delivery test be implemented.

Planning freedoms (DNPPF 213)

The paragraph on 'planning freedoms' (DNPPF 213) is a bizarre statement of government aspiration, not planning policy, and has no place in the NPPF.

Question 41

Do you think that any changes should be made to the Planning Policy for Traveller Sites as a result of the proposed changes to the Framework set out in the consultation document? If so, what changes should be made?

Yes

Please enter your comments here

In line with our general comments we consider that policies for traveller sites should be integrated into the NPPF.

Question 42

Do you think that any changes should be made to the Planning Policy for Waste as a result of the proposed changes to the Framework set out in the consultation document? If so, what changes should be made?

Yes

Please enter your comments here

In line with our general comments we consider that policies for waste planning should be integrated into the NPPF.

Glossary

Question 43

Do you have any comments on the glossary?

Affordable Housing

We are extremely disappointed to see that all reference to social rented housing has been removed from the glossary, and indeed from the revised draft NPPF as a whole. Social housing performs a crucial function in providing for those on low incomes whose needs are not met under the government's definition of 'affordable rented housing'. This applies in particular to rural areas, which have been disproportionately affected by Right to Buy, and where average house prices are higher and wages lower than in urban areas.

Under the definition of 'affordable housing for rent' we are concerned that the new stipulation that landlords must be registered providers, except in the case of Build to Rent schemes, will exclude community land trusts, cohousing schemes, and philanthropic landowners wishing to provide affordable housing independently within their communities. We question whether this condition is necessary, and what it adds over and above the other requirements for affordable rented housing.

We are also concerned about some of the implications of the expanded definition of affordable housing, which now includes starter homes and discounted market sales housing. We recognise that these types of homes have an important role to play in catering to particular sections of the housing market and those on middling incomes. However, we fear that this new definition will lead developers to meet their affordable housing quotas by providing discounted market sales housing at the expense of affordable rented homes.

Deliverable

Please see the CPRE response to Question 14.

Developable

The NPPF should clearly reference what makes a site 'suitable' including with regard to the likely delivery of infrastructure; and environmental, heritage and amenity value of the site.

Entry level exceptions site

Notwithstanding our general objection to this policy, the term must be defined with reference to the policies that it is intended to be an exception to.

Housing Delivery Test

If the HDT is retained, this should make reference to the Data Standard document.

Local Housing Need

The NPPF and NPPG currently do not differentiate between housing need and housing demand. The two terms are conflated in the glossary definition of housing need, when in fact they refer to entirely separate things. In light of CPRE's Housing Foresight Paper, [Needless Demand: How a focus on need can help solve the housing crisis](#), we suggest that the glossary should include separate definitions of housing need and housing demand.

Housing need should be defined as 'The housing that households require irrespective of their ability to pay, as determined through detailed assessments at a local level and through analysis of local population projections over a plan period. It must also take into account unmet need in the form of concealed and shared households, or those living in accommodation that is not fit for purpose.'

Housing demand should be defined as 'The market demand for housing that exceeds the minimum requirements to meet housing need, and instead reflects the types and location of homes that people are willing to pay for within a housing market area.'

Major Development

While we welcome the definition of major development in relation to housing development over ten units, which is a useful threshold, it should not be allowed to prevent smaller scale developments in National Parks/AONBs being considered as major. A development of under ten units could have a significant impact on the special qualities of a designated landscape by reason of their scale, character or nature. The proposed definition does not address the cumulative impact of smaller developments, which could also lead to a major impact on a designated landscape. One way to address this would be to add additional text in this glossary definition:

'The definition of what comprises major development in National Parks and Areas of Outstanding Natural Beauty, as set out in paragraph 170, rests with the decision maker. For guidance major development comprises proposals with the potential to have a serious adverse impact on the natural beauty and recreational opportunities provided by a National Park or AONB by reason of its scale, character or nature.'

There are concerns about non-residential development within the definition, which could potentially lead to developments within National Parks and AONBs no longer being regarded as major development if they are below the size threshold.

Previously Developed land

Please see the CPRE response to Question 25.

CPRE recognises the intention of the exception from the definition of 'land in built-up areas such as residential gardens, parks, recreation grounds and allotments', but this has been semantically problematic in practice for two reasons. First: the use of 'such as' is confusing as it is not clear what qualities of those types of land the reader is meant to infer constitutes the exception. As this is not a definitive list, it could be read as 'any land', including, for example, a long-standing cleared former-brownfield site. Second: it implies that gardens, parks, recreation grounds and allotments outside of built-up areas are not excluded; this is especially important because the opening sentence of the definition is clear that land in the curtilage of a building is previously developed land (PDL): hence, the residential garden of an isolated house in the countryside is PDL, whereas

that of a house in a city is not. The exception should be reworded as 'open land such as residential gardens, parks, recreation grounds and allotments, even in a built-up area'.

Rural exceptions sites

We do not support the change in wording regarding cross-subsidisation on rural exception sites. In 2012 the suggestion was that affordable housing on rural exception sites could be cross-subsidised by 'small numbers of market homes'. This has now become 'a proportion of market homes'. We are concerned that this change further undermines the important function of rural exception sites in providing affordable housing to meet identified local needs and will result in more unaffordable executive homes being built on greenfield sites which have not been allocated in local plans.

Tranquility

There is a need for an agreed definition of tranquillity; this is currently lacking from the glossary. The draft NPPF also now uses the terms tranquillity (DNPPF 101b) and (re)introduces the term 'tranquil area' (DNPPF 178b) which was used in CPRE/Countryside Commission maps in 1993 (now renamed intrusion mapping). Suitable guidance is required to avoid risk of further terminological confusion and questions about the most suitable evidence base to support the policy. Please see our response to Q35 for suggested definition.

Under-utilised land

'Under-utilised land' is referred to in Chapter 11. It would be helpful to have a definition of this in the glossary to be clear on what this refers to. Under-utilised land should not include residential gardens, parks, recreation grounds and allotments in urban or rural areas.