

## **MAIDSTONE BOROUGH COUNCIL**

### **RECORD OF DECISION OF THE LEAD MEMBER FOR PLANNING AND INFRASTRUCTURE**

Decision Made: 22 February 2023

#### **Reforms to national planning policy**

##### **Issue for Decision**

On 22 December 2022 the Department for Levelling-Up Housing & Communities launched a public consultation into proposed changes to national planning policy in England as outlined in the National Planning Policy Framework and the Levelling Up and Regeneration Bill currently making its way through Parliament.

This decision outlines the key changes proposed to the National Planning Policy Framework and future national policy, specifically highlighting key matters which are of relevance to Maidstone Borough Council. It recommends that members review the draft responses and agree formal responses to the consultation presented for consideration, as drafted by officers and appended to the decision.

The consultation closes at 11.45pm on 2 March 2023.

##### **Decision Made**

**RESOLVED:** That the proposed response to the consultation as at amended Appendix 1 of this decision be agreed.

##### **Reasons for Decision**

1.1 On 22 December 2022 the Department for Levelling-Up Housing & Communities launched a public consultation into proposed changes to national planning policy in England. This is in two parts – firstly, changes to current national policy as outlined in the National Planning Policy Framework (NPPF) 2021, and, secondly, changes to be made to national planning policy because of the Levelling-Up & Regeneration Bill that is currently progressing through Parliament. The consultation closes at 11.45pm on 2 March 2023.

1.2 The consultation consists of 15 chapters and 58 questions relating to the proposed changes and this material can be found via the weblink provided in background document 1 (to the report). As part of the consultation the Government has produced an edited version of the NPPF that includes the proposed changes, and this can be found in background document 2 (to the report).

1.3 The decision has been structured into two parts. Part 1 to highlight the changes proposed to the current NPPF. Part 2 proposed changes to the national policy in the future.

##### **Part 1. Immediate changes to National Planning Policy Framework**

1.4 The NPPF sets out the Government's planning policies for England and was

first introduced in 2012. It was subsequently updated in 2018, 2019 & 2021. It is a material consideration in decision making and must be considered in the development of planning policies as per the Planning & Compulsory Purchase Act 2004.

1.5 The proposed changes to the NPPF can be seen in Background Document 2. In summary the changes refer to the following elements:

- plan making
- housing supply and delivery
- design codes & design of development
- Green Belt
- climate change
- natural environment
- implementation proposed changes, and
- Updates to the glossary of terms

1.6 This summary has been expanded upon below.

### **Plan making**

1.7 In plan making changes are proposed to ensure strategic policies supporting beauty in design and placemaking with a strong emphasis on local design codes, in line with the National Model Design Code. Changes to the tests of soundness for plan-making are proposed. Removal of the 'justified' test and amendments to the 'positively prepared' test are proposed and replaced with the requirement that LPA's only need to meet objectively assessed needs 'so far as possible'. It is also proposed that there will no longer be a requirement to satisfy unmet need from neighbouring authorities. Guidance on duty to co-operate remains unchanged despite the Secretary of State's December statement on this ending.

1.8 The status of Neighbourhood Plans is proposed to be strengthened and receive greater protection against 'tilted balance' arguments. Neighbourhood plans are to be considered up to date for 5 rather than 2 years.

1.9 When assessing housing need, further clarity is provided to define what older persons accommodation means. It states this includes: 'retirement housing, housing with care and care homes.'

### **Housing need, supply & housing delivery test**

1.10 The proposed amends confirm that the standard methodology for assessing housing need is "an advisory starting point for establishing a housing requirement".

1.11 The Government proposes that authorities with an up-to-date local plan will no longer need to continually show a deliverable five-year housing land supply. In this case, "up-to-date" means where the housing requirement as set out in strategic policies is less than five years old, the document says. The government proposes the change to take effect when it publishes the revised National Planning Policy Framework, "expected in Spring 2023". Alongside these authorities can include oversupply in the 5-year housing land supply calculations and buffers would be removed. and there is explicit reference that building at densities significantly out of character with an existing area may provide

justification for not meeting full assessed needs.

1.12 The housing delivery test (HDT) is proposed to be amended in a way which does not penalise local planning authorities unfairly when slow housing delivery results from developer behaviour. However, where delivery falls below 95% of the requirement over the previous 3 years and action plan would be required and where delivery falls below 75%, the presumption in favour of sustainable development in addition to the preparation of an action plan. However, an amendment is proposed so that if permissions have been granted for homes in excess of 115% of the authorities housing requirement over the HDT monitoring period then the presumption in favour of sustainable development will not apply.

### **Design of development**

1.13 To allow more upward extensions to properties the Government has added in specific reference to the support mansard roof extensions

1.14 The Government are also proposing to support developments that are 'beautiful' and well designed with a strong emphasis on local design codes, in line with the National Model Design Code and has inserted this into various parts of the NPPF.

### **Green Belt**

1.15 Amendments have been made to chapter 13 'Protecting Green Belt land'. They clarify that Green Belt boundary reviews are not automatically needed when updating a local plan and not needed if this is the only means of meeting an authority's objectively assessed need over the plan period.

### **Climate change**

1.16 To help planning for climate change the Government has proposed amended national policy to allow for upgrades to renewable energy equipment in what is referred to as 'repowering'. Also, improvements to energy efficiency are to be more formally supported through planning policy and the decision-making process. with significant weight being given to the need to support energy efficiency improvements through the adaptation of existing buildings to improve their energy performance (including through installation of heat pumps and solar panels where these do not already benefit from permitted development rights). This extends to proposals affecting conservation areas and listed buildings.

### **Natural Environment**

1.17 The Government has sought to clarify the position with regards to agricultural land through the amendment of footnote 67. The amendment adds in the need to consider the food production value of land as well as its agricultural land quality.

### **Implementation & glossary**

1.18 The Government proposes changes to Annex 1: Implementation of the NPPF. These amendments set out the transitional arrangements for the new changes proposed. In short:

- The revised tests of soundness and the policy on renewable and low carbon energy and heat in plans only apply to plans that have not reached Regulation 19 stage or reach that stage within three months of the revised NPPF.
- Any LPAs which have been subject to a Regulation 18 or 19 consultation for plan making will only need to demonstrate four years of housing supply for a period of up to two years.

1.19 In addition, the Government is proposing an addition to Annex 2: Glossary of the NPPF. This sets out a definition of community-led developments in order that they are considered as an option for rural housing.

### **Summary of responses**

1.20 In regard to the proposed changes to the NPPF officers have drafted responses (appendix 1) in order that Members may consider these further and add further comments as appropriate. In summary broadly the changes to the NPPF are welcomed with greater protection local plans and the environment, but there is concern with regards to the level of details provided and would ask that further clarity is given through an update to the national planning practice guidance.

### **Part 2. Proposed future changes to national planning policy**

1.21 The consultation also asks for views on a range of proposed changes to national planning policy at a future date that will come from the proposals in the Levelling-Up and Regeneration Bill currently before Parliament. The proposals are particularly focused on making sure the planning system capitalises on opportunities to support the natural environment, respond to climate change and deliver on levelling up of economic opportunity, and proposed National Development Management Policies.

1.22 Highlighted below is a summary of the proposed changes.

#### **Developer accountability**

1.23 The Government wants to increase developer accountability (chapter 5 paragraphs 18-22) of the consultation document. In summary the Government wants the past behaviour of a developer in terms of breaches of planning or failure to deliver on their commitments to be taken into account in decision making. It has proposed has two options:

- option 1: making such behaviour a material consideration when local planning authorities determine planning applications so that any previous irresponsible behaviour can be taken into account alongside other planning considerations;
- option 2: allowing local planning authorities to decline to determine applications submitted by applicants who have a demonstrated track record of past irresponsible behaviour prior to the application being considered on its planning merits - similar to the amendment which we have already made to the Levelling Up and Regeneration Bill allowing local planning authorities to decline to determine new applications on sites where the build out of development has been too slow.

## **More build out**

1.24 The Government also proposes three methods to increase the build out and absorption of development with a future change to the national policy (chapter 5 paragraphs 23-27). These include:

- The publication of data on developers of sites over a certain size in cases where they fail to build out according to their commitments.
- Developers will be required to explain how they propose to increase the diversity of housing tenures to maximise a development scheme's absorption rate (which is the rate at which homes are sold or occupied).
- The National Planning Policy Framework will highlight that delivery can be a material consideration in planning applications. This could mean that applications with trajectories that propose a slow delivery rate may be refused in certain circumstances.

## **Protecting the Environment & climate change**

1.25 The Government wants to go further and will consider how national policy and design guidance fully supports habitats and routes for wildlife, as well as halting the threat to wildlife created by the use of artificial grass by developers in new development (noting the importance of some uses of artificial grass such as on sports pitches) (chapter 7 paragraph 7)

1.26 The Government will bring forward further guidance on how Local Nature Recovery Strategies from the Environment Act can be reflected in local planning strategies (chapter 7 paragraph 8).

1.27 To reflect the Government's Net Zero Strategy, it will seek to amend the NPPF to potentially include carbon impact assessments (chapter 7 paragraphs 12-13)

## **Plan making**

1.28 A new plan making system is proposed (chapter 9 paragraphs 1-2). A new system will be introduced in 2024, but plan makers will have until 30 June 2025 to submit their local plans, neighbourhood plans, minerals and waste plans, and spatial development strategies for independent examination under the existing legal framework. There will be a requirement for local planning authorities and minerals and waste planning authorities to start work on new plans by, at the latest, 5 years after adoption of their previous plan, and to adopt that new plan within 30 months.

1.29 An example of how this works is as follows - authorities that have prepared a local plan, spatial development strategy or minerals and waste plan which is less than 5 years old when the new system goes live will not be required to begin preparing a new-style plan until their existing plan is 5 years old. So, for example, if an authority last adopted a local plan on 31 March 2022, the preparation of a new plan must start by 1 April 2027. For a plan adopted in mid-December 2026, the preparation of a new plan must start by mid-December 2031.

1.30 For neighbourhood planning the same rules apply. The Government is proposing that neighbourhood plans submitted for examination after 30 June 2025 will be required to comply with the new legal framework. 'Made' neighbourhood plans prepared under the current system will continue to remain in force under the reformed system until they are replaced (chapter 9 paragraph 12).

1.31 The Government is also proposing to amend the supplementary planning documents system (chapter 9 paragraph 13). In the reformed planning system, authorities will no longer be able to prepare supplementary planning documents (SPDs). Instead, they will be able to prepare Supplementary Plans, which will be afforded the same weight as a local plan or minerals and waste plan. It is proposed that when the new system comes into force (expected late 2024), existing SPDs will remain in force for a time-bound period; until the local planning authority is required to adopt a new-style plan.

1.32 Below in figure 1 is the overall proposed timetable for the changes to the plan making system to take effect.

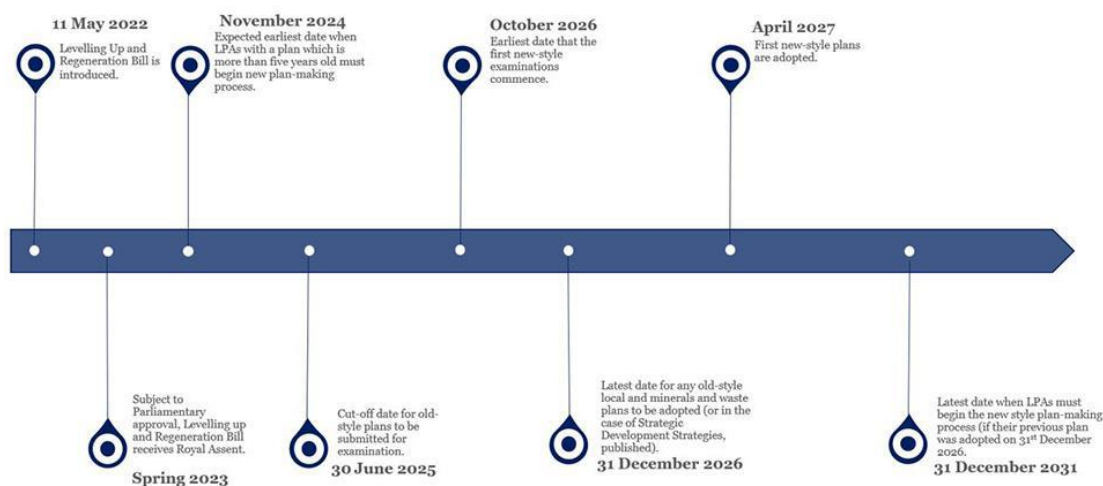


Figure 1. Proposed timetable for plan making changes

## National Development Management Policies

1.33 The consultation seeks views on the introduction of the National Development Management Policies (NDMP) through the Levelling-up and Regeneration Bill currently making it way through Parliament.

1.34 The proposal is that NDMPs would be given the same weight in certain planning decisions as policies in local plans, neighbourhood plans and other statutory plans (and could, where relevant, also be a material consideration in some other planning decisions, such as those on Nationally Significant Infrastructure Projects). It is the intention that National Development Management Policies would cover planning considerations that apply regularly in

decision-making across England or significant parts of it, such as general policies for conserving heritage assets, and preventing inappropriate development in the Green Belt and areas of high flood risk. The consultation does not provide any specific policies at present.

1.35 Within the consultation the Government provides a diagram that sets out how the NDMP would function in the new system proposed by the Levelling-up and Regeneration Bill.

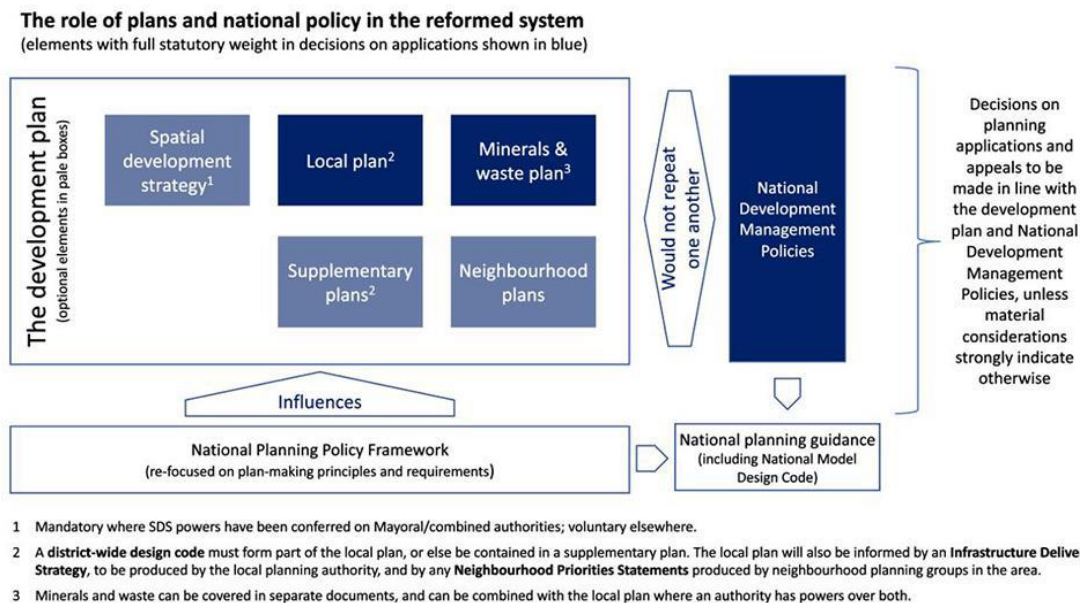


Figure 2 Proposed new planning policy system

## Levelling-Up

1.36 The Government also wants to use planning policy to bring forward 12 levelling-up missions and has asked for ideas on how this could be achieved. The 12 levelling-up missions were outlined in the Levelling-Up White Paper in February 2022 and are highlighted in figure 3 below.

Focus Area	Mission
<i>Boost productivity, pay, jobs and living standards by growing the private sector, especially in those places where they are lagging</i>	
Living Standards	By 2030, pay, employment and productivity will have risen in every area of the UK, with each area containing a globally competitive city, and the gap between the top performing and other areas closing.
Research & Development (R&D)	By 2030, domestic public investment in R&D outside the Greater South East will increase by at least 40%, and over the Spending Review period by at least one third. This additional government funding will seek to leverage at least twice as much private sector investment over the long term to stimulate innovation and productivity growth.
Transport Infrastructure	By 2030, local public transport connectivity across the country will be significantly closer to the standards of London, with improved services, simpler fares and integrated ticketing.
Digital Connectivity	By 2030, the UK will have nationwide gigabit-capable broadband and 4G coverage, with 5G coverage for the majority of the population.
<i>Spread opportunities and improve public services, especially in those places where they are weakest</i>	
Education	By 2030, the number of primary school children achieving the expected standard in reading, writing and maths will have significantly increased. In England, this will mean 90% of children will achieve the expected standard, and the percentage of children meeting the expected standard in the worst performing areas will have increased by over a third.
Skills	By 2030, the number of people successfully completing high-quality skills training will have significantly increased in every area of the UK. In England, this will lead to 200,000 more people successfully completing high quality-skills training annually, driven by 80,000 more people completing courses in the lowest skilled areas.
Health	By 2030, the gap in Healthy Life Expectancy (HLE) between local areas where it is highest and lowest will have narrowed, and by 2035 HLE will rise by five years.
Well-being	By 2030, well-being will have improved in every area of the UK, with the gap between top performing and other areas closing.



Focus Area	Mission
<i>Restore a sense of community, local pride and belonging, especially in those places where they have been lost</i>	
Pride in Place	By 2030, pride in place, such as people's satisfaction with their town centre and engagement in local culture and community, will have risen in every area of the UK, with the gap between top performing and other areas closing.
Housing	By 2030, renters will have a secure path to ownership with the number of first-time buyers increasing in all areas; and the government's ambition is for the number of non-decent rented homes to have fallen by 50%, with the biggest improvements in the lowest performing areas. <sup>320</sup>
Crime	By 2030, homicide, serious violence and neighbourhood crime will have fallen, focused on the worst affected areas.
<i>Empower local leaders and communities, especially in those places lacking local agency</i>	
Local Leadership	By 2030, every part of England that wants one will have a devolution deal with powers at or approaching the highest level of devolution and a simplified, long-term funding settlement.

Figure 3 The Twelve Levelling-Up Missions

### Proposed future changes to national planning policy

1.37 In chapter 12 of the consultation document the Government also sets out further changes that may come forward as a result of the further planning reforms. These are set out in figure 4 below. In the consultation no questions were posed on these proposals.

Existing National Planning Policy Framework chapter	Aspects of policy which may require updating
Achieving sustainable development	<p>Amendments to reflect the importance of fostering beautiful places, better environmental and health outcomes, delivering appropriate infrastructure (including sustainable transport provision) and effective community engagement, in the wider context of promoting levelling up.</p> <p>The presumption in favour of sustainable development may also need amending to reflect the introduction of National Development Management Policies (once designated).</p> <p>We are considering how to align the NPPF with the Environment Act and how to make government's priorities for the environment clear and to ensure these are given sufficient weight.</p>

Plan-making	<p>Changes to reflect the amendments to plan-making made by the Bill, including:</p> <ul style="list-style-type: none"> <li>- replacing the statutory duty to cooperate (which would be abolished by the Bill) with a new 'Alignment Policy' to secure appropriate engagement between authorities where strategic planning considerations cut across boundaries. This will be tested at Examination and, importantly, unlike the current system authorities and Inspectors would have the ability to amend Plans to improve alignment;</li> <li>- any changes to the 'soundness' tests for assessing draft plans which may be appropriate so that plan examinations are proportionate;</li> <li>- how infrastructure delivery strategies are to be prepared;</li> <li>- the importance of effective community engagement in plan-making, including through digital means;</li> <li>- taking Neighbourhood Priorities Statements into account when preparing local plans; and</li> <li>- other procedural changes to plan-making, including a fixed timetable for local plan production, the role of gateway checks, new data standards, streamlined evidence requirements and the introduction of Environmental Outcome Reports.</li> <li>- We are also considering how to encourage wider uptake of strategic planning to understand and resolve environmental issues in a joined up way. Strategic planning also needs to consider rural communities to ensure that local policies are tailored to their different needs.</li> </ul>
Decision-making	<p>Changes to reflect the role of National Development Management Policies in decision-making, the introduction of Environmental Outcome Reports for assessing relevant development proposals, the importance of digital methods of community engagement, and to place greater emphasis on planning enforcement, with increased weight against intentional unauthorised development.</p>
Delivering a sufficient supply of homes	<p>Changes to: support the Bill's provisions to strengthen control over the build-out of sites with permission for residential development; enshrine our commitment to lifting the 5-year housing supply requirement where plans are fewer than 5 years old; and carry forward the more immediate changes we are consulting on in this document.</p>
Building a strong, competitive economy	<p>As set out in the Levelling Up White Paper, we propose to consult on a more positive framework for supporting economic development, including reviewing the approach to supporting employment land, and the</p>

	consideration of supply chain and connectivity issues, including responding to information gathered as part of the Future of Freight Call for Evidence.
Ensuring the vitality of town centres	We propose to review the approach to town centre and out-of-centre development in the light of the Use Class Order changes.
Promoting sustainable transport	We propose to assess what changes are needed to reflect the government's commitment to encourage active travel through the 'Gear Change' programme, the forthcoming update to Local Transport Plan's Guidance, any update to Manual for Streets and wider work to reduce carbon consumption from transport planning choices as set out in the Transport Decarbonisation Plan. We also propose to review policy on the freight sector and supply chains infrastructure, such as lorry parking, warehouse space and rail freight hubs. This will draw on findings from the government's 'Future of Freight' call for evidence which will be launched in due course.
Achieving well-designed places	Changes to reflect provisions in the Bill on mandatory authority wide design codes and supplementary plans.
Protecting Green Belt land	Amendments to reflect the commitment in the Levelling Up White Paper to bringing forward measures to 'green' the Green Belt, to improve its environmental and recreational value.
Meeting the challenge of climate change, flooding and coastal change	Changes to reflect and incorporate the immediate proposals being consulted on in this document, as well as any further changes needed to reflect our commitment to making sure that national policy goes as far as possible in addressing climate change.
Conserving and enhancing the natural environment	Proposed changes to: <ul style="list-style-type: none"> <li>- set out how Local Nature Recovery Strategies, introduced by the Environment Act, should be given weight in the plan-making process;</li> <li>- reflect updated guidance on addressing nutrient pollution, including expectations on strategic mitigation in sensitive catchment areas;</li> <li>- reflect a review of policy on ancient woodland, as agreed in the passage of the Environment Act 2021;</li> <li>- reflect the introduction of mandatory Biodiversity Net Gain from 2023; incorporate nature into development through better planning for green infrastructure and nature-friendly buildings.</li> </ul>
Conserving and enhancing the historic environment	Amendments to reflect the changed status of some historic designations through the Bill

*Figure 4 Proposed further changes to the planning system*

1.38 The Government also wants to enhance the digitalisation of planning and so wishes to understand how this could be achieved (chapter 13 paragraphs 1- 6).

## Summary of responses

1.39 In regard to the proposed changes to the national planning policy in the future officers have drafted responses (appendix 1) in order that Members may consider these further and add further comments as appropriate. In summary broadly the proposed future changes to national planning policy are welcomed as they place more emphasis on the developer to delivery and enshrine the primacy of the Local Plan. The Council does have concerns with regards to the level of details provided and would ask that further clarity is given. Especially around the operation of the new supplementary plans and national development management policies. Plus, how the levelling-up agenda will be brought forward.

### **Alternatives considered and why rejected**

2.1 Option 1 **(NOT APPROVED)**: That the response to the consultation at Appendix 1 be approved. This would allow the response to be sent by the submission deadline.

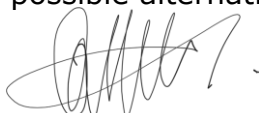
2.2 Option 2 **(APPROVED)**: That the response at amended Appendix 1 be approved, including the comments and considerations of the PI PAC.

2.3 Option 3 **(NOT APPROVED)**: That the response at Appendix 1 is not approved. However, this would mean the response would not be sent and the Council's views would not be factored in.

### **Appendix**

- Appendix 1: Draft MBC Response to National Planning Policy Consultation December 2022 to March 2023

I have read and approved the above decision for the reasons (including possible alternative options rejected) as set out above.

Signed:   
Lead Member for Planning and Infrastructure

Full details of both the report for the decision taken above and any consideration by the relevant Policy Advisory Committee can be found at the following area of the [website](#)

Call-In: Should you be concerned about this decision and wish to call it in, please submit a call-in form signed by any three Members to the Proper Officer by: **5pm on 2 March 2023**