

# The right homes in the right places

*Georgina Reeves reviews the key consultation proposals published in September, which are aimed at increasing the supply of new homes*



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**T**he much-anticipated (and much delayed) housing white paper, *Fixing our broken housing market* (published in February 2017), was ultimately something of a damp squib. The *Planning for the right homes in the right places: consultation proposals* (the consultation), which was published on 14 September 2017, seeks to put some flesh on the bones and set out wide-ranging proposals aimed at increasing the supply of new homes. The proposals will be delivered via amendments to the National Planning Policy Framework (NPPF), a revised version of which will be published in Spring 2018, and Planning Practice Guidance (PPG).

This article reviews the some of the proposals: principally, a standardised method for calculating local housing need, the introduction of a statement of common ground to improve the way that local authorities work together on cross-boundary planning matters, and changes to the use of viability assessments.

## Calculating local housing need

It is widely recognised that the existing approach to assessing housing need is overly complex, costly and time-consuming. To overcome these issues, the government proposes to introduce a simplified and standardised method, which is quicker and more transparent, thereby reducing the time taken to put local plans in place and generating efficiency savings.

## Step 1 – setting the baseline

The starting point when assessing housing need will continue to be household growth projections. The consultation suggests that figures published by the Office of National Statistics (ONS) represent the most robust data and should therefore be relied upon. This will form the demographic baseline and equates to the bare minimum that is required to stand still.

## Step 2 – adjustment for market signals

Under the proposals, median affordability ratios published annually by the ONS, comparing median house prices to median earnings, will be used as a proxy for market signals. Where median house prices are more than four times median earnings, an adjustment factor will be applied, so that every 1% increase in the ratio above this level will result in a 0.25% increase in need above the projected household growth. This seeks to ensure that more homes are delivered in the locations where affordability is poor.

## Step 3 – capping the level of any increase

The consultation acknowledges that the government's proposed approach to market adjustment will result in a significant increase in the potential level of housing need in certain areas. To ensure deliverability, the government therefore proposes to apply a cap to limit the level of any increase depending on the current status of the local planning authority's (LPA's) local plan, as set out in table 1 on p25.

**'In terms of methodology at least, the proposed standardised approach is a significant step forward in terms of simplicity.'**

## Impacts

While the assessed housing need would increase in 156 areas by an average of 35% under the standardised approach, it would fall in a further 148 areas by an average of 28%. Overall, the Department for Communities and Local Government (DCLG) calculates that universal application of the standardised method across England would lead to a total annual housing need of approximately 266,000 homes based on current figures. This is broadly in line with figures set out in the housing white paper, which indicate that an additional 225,000 to 275,000 homes need to be built each year.

## Advantages of using the standardised method

To be deemed sound under the government's proposed amendments to the NPPF, a local plan will have to assess housing need using a robust method that is 'clear and justified'. Use of the standardised method would satisfy this test under the revised planning practice guidance. This will act as a strong incentive for LPAs to adopt the standardised method.

## Deviation from the standardised method

The Secretary of State for Communities and Local Government, Sajid Javid, made clear in his statement to the House of Commons announcing the consultation that the standardised method 'should not be mistaken for a hard and fast target'. He recognised that:

There will be places where constraints – for example, such as Areas of Outstanding Natural Beauty, national parks or others – mean there's not enough space to meet local need.

Indeed, the consultation acknowledges that there may be 'compelling reasons' for LPAs to depart from the standardised method.

Nonetheless, the consultation paper emphasises that there will be 'very limited grounds' for adopting an alternative approach,

## Proposed standardised approach

Step 1 – Setting the baseline

Step 2 – Adjustment for market signals

Step 3 – Capping the level of any increase

which leads to a lower housing need figure than that calculated under the standardised method. Consequently, where an LPA proposes a housing need figure which is lower than the standardised method, the reasons for doing so will be rigorously tested at examination. On the contrary, where an LPA proposes to deliver homes in excess of the figure calculated using the standardised method, a rebuttable assumption will apply under the PPG that the figures are sound.

## Transitional provisions

The consultation acknowledges that introducing the standardised method with immediate effect could undermine the progress made by LPAs currently going through the plan-making process. It therefore envisages transitional arrangements, as set out in table 2 on p26, according to the status of the LPA's current or emerging plan.

## Planning for a mix of housing needs

In light of the new standardised approach to assessing housing

need, the government intends to update the existing PPG outlining how local authorities should plan for different housing types and tenures. Under the proposals, LPAs will be required to disaggregate their total housing need into the separate need for each particular type of housing (for example, housing for older and disabled people, housing for families with children and student accommodation). The consultation recognises however that it would be disproportionate for LPAs to cover every conceivable group with varying housing needs and consult on how to streamline the process for identifying the housing need for individual groups.

## Neighbourhood planning

The housing white paper set out the government's intention to amend the NPPF so that LPAs are required to provide neighbourhood plan groups with a housing need figure where this is necessary to progress the neighbourhood plan.

Under the latest proposals, the PPG will be revised to allow LPAs to determine this figure using

Table 1

Status of local plan	Proposed cap
Plan adopted in the last five years	40% above the annual housing need figure currently set out in the local plan.
No up-to-date local plan	40% above the higher of the: <ul style="list-style-type: none"> <li>projected household growth over the plan period (using ONS household projections); or</li> <li>annual housing need figure currently set out in the local plan.</li> </ul>

reasoned judgement, based on the settlement strategy and housing allocations, provided the local plan is sufficiently up-to-date. Importantly, the revised PPG will also confirm

area. For example, if the population of the neighbourhood area constituted 10% of the population of the local authority area, the neighbourhood housing figure would be 10% of

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that the resulting neighbourhood housing figure is not expected to be tested at the neighbourhood plan examination.

Where the local plan is out-of-date, it is proposed that a formula-based approach be adopted. This would seek to apportion the overall housing need figure, calculated using the standardised approach, for the relevant LPA according to what percentage the population of the neighbourhood area comprises of the overall population in the LPA

the total housing need figure for the LPA.

The consultation also seeks views on whether the NPPF should be further amended to require LPAs to include housing figures for designated neighbourhood areas and parish areas in their local plans. If implemented, this could result in a more joined-up approach to housing need and a reduction in conflicts arising due to disparities between local and neighbourhood plans.

## Improving how authorities work together – statements of common ground

Under the proposals, LPAs will be required under the NPPF to produce a 'statement of common ground' (SoCG) with neighbouring authorities setting out how they intend to work together to address cross-boundary planning matters.

The SoCG is not intended to replace the existing statutory 'duty to co-operate', introduced by the Localism Act 2011, which places a legal duty on local planning authorities to:

... engage constructively, actively and on an ongoing basis to maximise the effectiveness of plan preparation in the context of strategic cross boundary matters.

Instead, the SoCG is intended to help:

- highlight much earlier in the plan-making process where effective co-operation is not happening;
- encourage LPAs to co-operate irrespective of where they are in the plan-making process; and
- LPAs evidencing compliance with the duty to co-operate when a plan is submitted for examination.

Once the revised NPPF is published, LPAs will have 12 months in which to put their SoCG in place, with an outline statement being required within six months. Thereafter, LPAs will have to regularly review their SoCG to ensure it remains up-to-date. As a minimum, the government will expect LPAs to review their SoCG at key milestones during the plan-making process, namely, in the consultation, publication, submission and adoption stages.

Where an LPA fails to produce or maintain an SoCG, the government intends to engage with the LPA in the first instance to understand the reasons for non-compliance. However,

Table 2

Plan stage	Transitional arrangement
No plan	Use the new standardised method <i>unless</i> the plan will be submitted for examination: <ul style="list-style-type: none"> <li>• on or before 31 March 2018; or</li> <li>• before the revised NPPF is published, whichever is the later.</li> </ul>
Plan has been published but not yet submitted	As above.
Plan adopted more than five years ago and the new plan has not yet reached the publication stage	As above.
Plan at examination stage	Continue with existing approach.
Plan adopted in last five years	Use the new standardised methodology when next reviewing/updating the plan.

the consultation paper makes clear that the government will intervene where necessary to ensure that communities and neighbouring authorities are not prejudiced as a result of an authority's failure to co-operate.

To further encourage LPAs to prepare SoCGs, the government also proposes to amend the existing 'tests of soundness' in the NPPF to also include requirements that:

- plans should be prepared based on a strategy informed by agreements over the wider area; and
- plans should be based on effective joint working on cross-boundary strategic priorities, which are evidenced in the SoCG.

Although the new tests for soundness will not take effect until 12 months after the revised NPPF has been published, to allow LPAs time to put their SoCGs in place, they will undoubtedly serve to incentivise LPAs in the midst of the plan-making process to take action.

The requirement for local authorities to prepare an SoCG is likely to be welcomed by developers. However, there is a question mark over how effective it will be in practice. It will be interesting to see whether the requirement to formally set out any matters that remain in dispute will lead to greater scrutiny, thereby resulting in LPAs adopting a more proactive and pragmatic approach when it comes to resolving cross-boundary issues.

### Increase in planning fees

The consultation reiterates the government's commitment, first set out in the housing white paper, to introduce regulations to increase nationally-set planning fees by 20% at the earliest opportunity – although, unsurprisingly, there is no mention of the fact that the increase was originally intended to take effect as of July 2017. Alongside this, the consultation

seeks views on when LPAs who are delivering the homes their communities need should be allowed to increase fees by a further 20%.

Given the consultation proposals place yet more burdens on LPAs, it is unclear whether the increases proposed will be sufficient to maintain the status quo, let alone

*LPAs will be required under the NPPF to produce a 'statement of common ground' with neighbouring authorities setting out how they intend to work together to address cross-boundary planning matters.*

In the main, there is support for increasing planning fees provided that there is an accompanying improvement in the service provided.

deliver a more effective, efficient planning service. Whether precluding poorly-performing LPAs from benefitting from the additional 20% increase will act as an incentive

## Priority areas for land registration

The housing white paper set out HM Land Registry's aim of achieving comprehensive land registration by 2030, including the registration of all publicly-held land in the areas of greatest housing need by 2020, with the remaining publicly-held land to follow by 2025.

Alongside the consultation, the government published the document *Comprehensive registration programme: priority areas for land registration*. This lists the areas of 'greatest housing need' based upon:

- the local housing need assessed using the new standardised method; and
- the percentage of unregistered land within each local authority area, which will form the priority areas for land registration purposes.

Priority areas			
Babergh	Ealing	Mid Suffolk	Southwark
Birmingham	East Cambridgeshire	Newark and Sherwood	Stockport
Boston	Great Yarmouth	North Dorset	Tamworth
Bournemouth	Hackney	North Somerset	Tendring
Brent	Haringey	Oadby and Wigston	Tower Hamlets
Brentwood	Harrogate	Oldham	Waltham Forest
Bristol	Herefordshire	Oxford	Wandsworth
Camden	Islington	Pendle	Waveney
Castle Point	Lewisham	Portsmouth	Westminster
Charnwood	Lichfield	Redbridge	Wigan
Chelmsford	Maldon	Sedgemoor	Worthing
Coventry	Manchester	South Holland	York
Derbyshire Dales	Melton	South Kesteven	

## Improving the use of s106 agreements

The government recognises that:

... an increase in planning obligations being contested on viability grounds is affecting the ability of authorities to ensure that policy requirements... are being met in full.

Under the proposals, LPAs will be required to:

- identify the affordable housing and infrastructure needed to deliver the local plan; and
- set out how these will be funded and the contributions that developers will be required to make.

These assumptions will then be tested at examination to ensure plans are viable and deliverable. The NPPF will make clear that:

... where policy requirements have been tested for their viability, the issue should not usually need to be tested again at the application stage.

As a further step, the government intends to update the PPG to make viability assessments 'simpler, quicker and more transparent' – in particular, through:

... setting out clearly defined terms to be used, a preferred approach to calculating costs and values (including land values), the format and accessibility of viability assessment reports, through to detailed process and methodology.

or simply allow failing LPAs to fall yet further behind remains to be seen.

### Prematurity

Although the NPPF sets out the weight to be given to emerging plan policies, it is currently silent on the question of prematurity. Instead this is left to the PPG which states that refusal of planning permission on prematurity grounds will rarely be justified except where:

- the local plan has been submitted for examination or, in the case of neighbourhood plans, the six-week publicity period has expired; and

- the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits.

To encourage LPAs to get local plans in place, under the proposals, the NPPF will be revised to set out the circumstances in which planning applications can be refused on the grounds of prematurity. The intention is to prevent plans that are at an advanced stage of production from being undermined by the pre-determination of planning applications, which are pivotal to an emerging local or neighbourhood plan.

## References

*Planning for the right homes in the right places: consultation proposals*  
[www.legalease.co.uk/consultation](http://www.legalease.co.uk/consultation)

*Comprehensive registration programme: priority areas for land registration*  
[www.legalease.co.uk/priority-areas](http://www.legalease.co.uk/priority-areas)

*Fixing our broken housing market*  
[www.legalease.co.uk/housing-white-paper](http://www.legalease.co.uk/housing-white-paper)

## Conclusions

Given the housing white paper failed to offer the ambitious, radical solutions to the housing crisis that most in the industry were keen to see, it is perhaps unsurprising that the consultation similarly offers no bold solutions, constrained as it was by the proposals set out in the housing white paper. The consultation does, however, make some inroads from a white paper which many viewed as being light on detail, by providing greater clarity on a number of proposals – the standardised methodology for assessing housing need being the main example.

In terms of methodology at least, the proposed standardised approach is a significant step forward in terms of simplicity. That is not to say, however, it is without problems. One of the key criticisms levelled at the methodology is that it fails to directly factor in projected and planned employment growth or affordable housing, thereby underestimating the level of housing need in certain areas. The affordability ratio also serves to widen the North-South divide by depressing housing need figures in the North and the Midlands, while further uplifting housing need in the South and, in particular, London. Although LPAs will be able to plan for homes in excess of the standardised figure, it remains to be seen if any LPAs will follow through. Within weeks of the consultation's launch, Leeds City Council announced its intention to delay the housing element of its emerging sites allocation plan to consider the revised approach to housing need – under the new formula, the city would likely see a reduction in its housing target.

The consultation should help to iron out some of the issues identified, but until we see the proposed amendments to the NPPF and the PPG, it is difficult to truly assess how effective the proposals will be. Given the extent of the changes, there will be a further consultation on the revised NPPF before its long-awaited publication. ■