

**Decision Maker:**        **DEVELOPMENT CONTROL COMMITTEE**

**Date:**                    **Tuesday 9 February 2016**

**Decision Type:**        Non-Urgent                    Non-Executive                    Non-Key

**Title:**                    **RESPONSE TO CONSULTATION ON PROPOSED CHANGES  
TO NATIONAL PLANNING POLICY**

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**Chief Officer:**        Chief Planner

**Ward:**                    (All Wards);

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1. Reason for report

The Government is consulting on changes to the National Planning Policy Framework (NPPF) in order to increase the delivery of housing. The changes will impact on planning decisions and on local policy being developed in the emerging Local Plan. This report seeks Members agreement to the Council's response to this consultation.

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2. **RECOMMENDATION(S)**

**DCC is asked to:**

Agree that the suggested responses set out in this report form the basis of the Council's response to the NPPF consultation.

### Corporate Policy

1. Policy Status: New Policy:
  2. BBB Priority: Quality Environment:
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### Financial

1. Cost of proposal: Not Applicable:
  2. Ongoing costs: Not Applicable:
  3. Budget head/performance centre: Planning
  4. Total current budget for this head: £1.243m
  5. Source of funding: Existing revenue budget 2015/16
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### Staff

1. Number of staff (current and additional): 59ftes
  2. If from existing staff resources, number of staff hours:
- 

### Legal

1. Legal Requirement: Non-Statutory - Government Guidance:
  2. Call-in: Not Applicable:
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### Customer Impact

1. Estimated number of users/beneficiaries (current and projected): Borough-wide
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### Ward Councillor Views

1. Have Ward Councillors been asked for comments? No
2. Summary of Ward Councillors comments: N/A

### 3. COMMENTARY

#### Background

- 3.1 In December 2015 the Government issued a consultation paper containing proposals to make specific changes to the National Planning Policy Framework (NPPF). It is set in the context of the Government's drive to deliver additional housing and runs in parallel to the Housing and Planning Bill which is proceeding through Parliament. The original deadline for comments has been extended and the consultation is open until February 22<sup>nd</sup> 2016.
- 3.2 The Government summarises the proposed changes as:
- Broadening the definition of affordable housing to expand range of low cost housing opportunities for those aspiring to own their own home;
  - Increasing the density of development around commuter hubs, to make more efficient use of land in suitable locations;
  - Supporting sustainable new settlements, development on brownfield land and small sites, and delivery of housing allocated in plans; and
  - Supporting delivery of starter homes.

However, there are a number of specific policy changes – including to Green Belt policy – within these four areas of potential relevance to Bromley.

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#### Changes to the definition of affordable housing

- 3.3 The Government proposes to amend the national planning policy definition of affordable housing to include “a fuller range of products” particularly to enable home ownership. The NPPF defines affordable housing as:

*Social rented, affordable rented and intermediate housing, provided to eligible households whose needs are not met by the market. Eligibility is determined with regard to local incomes and local house prices. Affordable housing should include provisions to remain at an affordable price for future eligible households or for the subsidy to be recycled for alternative affordable housing provision.*

- 3.4 The Government considers that the current definition is unnecessarily constrained and risks stifling innovation. The new definition would include “products analogous to low cost housing or intermediate rent such as discount market sales or rent-to-buy housing”. Revised policy will require local planning authorities to plan for the housing needs of those who aspire to become home owners as well as those whose needs are best met through rented homes. This will still be subject to the viability of individual sites.
- 3.5 In parallel, the Housing and Planning Bill is introducing a statutory duty on local authorities to promote the delivery of starter homes, and a requirement for a proportion of starter homes to be delivered on all reasonably-sized sites.
- 3.6 Starter homes are new dwellings for first-time buyers under the age of 40, sold at a discount of at least 20% of market value. The cap in London will be £450,000. They cannot be resold or let on the open market for five years.

- 3.7 The Government proposes to introduce a transitional period (of 6 to 12 months) for the amended affordable housing definition so that local planning authorities can make changes to their policies.

**Question: Do you have any comments or suggestions about the proposal to amend the definition of affordable housing in national planning policy to include a wider range of low cost homes?**

Suggested response

- 3.8 *There is concern that the proposal will reduce the amount of housing which currently falls within the 'affordable housing' definition i.e. social rented, affordable rented and intermediate housing. Further clarification is required in relation to whether or not the additional low cost market products and starter homes would be in addition to affordable units already sought by boroughs. Starter homes should not be delivered at the expense of housing which currently falls within the affordable housing definition.*
- 3.9 *There is also concern that the units referred to will not remain in perpetuity which will impact negatively upon the level of affordable stock available in the future and will not help address housing needs across the Borough.*
- 3.10 *Boroughs would have to be able to demonstrate that there is a need for the new products through Strategic Housing Market Assessments.*
- 3.11 *The proposals would impact upon the level of Community Infrastructure Levy sought on schemes because starter homes would be exempt. This has implications for the wider infrastructure required by the community whereby schemes could be allowed without the necessary infrastructure to support the development, for instance, schools, health facilities*

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**Increasing residential density around commuter hubs**

- 3.12 The consultation document states that there are significant benefits to encouraging development around new and existing "commuter hubs", which it defines as:
- a) a public transport interchange (rail, tube or tram) where people can board or alight to continue their journey by other public transport (including buses), walking or cycling; and
  - b) a place that has, or could have in the future, a frequent service to that stop. We envisage defining a frequent service as running at least every 15 minutes during normal commuting hours
- 3.13 Revised national planning policy will expect local planning authorities, in both plan-making and in taking planning decisions, to require higher density development around commuter hubs wherever feasible.
- 3.14 A minimum density requirement is not suggested, the consultation document stating "we consider that it is important for density ranges to be decided locally to be aimed at local needs. Setting a minimum density would be unnecessarily prescriptive, and could fail to take account of local character and increase the risk of lower quality development."

**Question: Do you agree with the Government's definition of commuter hub? If not, what changes do you consider are required?**

### Suggested response

- 3.15 *The Council broadly agrees with the definition, except the use of the phrase in b) “a place that has, or could have in the future, a frequent service to that stop”. This would be better phrased “...or is proposed to have in the future...” otherwise this could apply to any location.*

**Question: Do you have any further suggestions for proposals to support higher density development around commuter hubs through the planning system?**

### Suggested response

- 3.16 *It is considered that the density matrix in the London Plan (with reference made within borough Plans) takes into account how accessible locations are to public transport facilities and suggested density ranges reflect this.*
- 3.17 *It is important to note that there are other factors which should influence the density of development and ought to be considered when deciding an appropriate level.*

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

### Suggested response

- 3.18 *We agree that the Government should not introduce a minimum density. Factors such as local character and context are key in influencing the appropriate density. The London Plan however does already include a minimum density as a guide for new development within London Boroughs.*

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## **Supporting housing development on brownfield land (including small brownfield sites)**

- 3.19 The National Planning Policy Framework already states that planning should encourage the effective use of land by re-using brownfield sites provided they are not of high environmental value, and that local councils can set locally appropriate targets for using brownfield land. In the Housing and Planning Bill, the Government have set out their intention to require local planning authorities to publish and maintain up-to-date registers of brownfield sites suitable for housing. These brownfield registers will be a vehicle for granting permission in principle for new homes on suitable brownfield sites.
- 3.20 Changes to national policy are proposed to give “substantial weight” to using brownfield land for housing - a form of ‘presumption’ in favour of brownfield land. Development proposals for housing on brownfield sites should be supported, unless overriding conflicts with the Local Plan or the National Planning Policy Framework can be demonstrated and cannot be mitigated.
- 3.21 The Government acknowledges that small sites of less than ten units play an important role in helping to meet local housing need and considers that the proposed changes will enable more small brownfield sites to be developed with associated local economic and social benefits.

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

### Suggested response

- 3.22 *Although existing policy already supports this position the Council considers that proposals relating to the process for sites being placed upon the brownfield register are onerous and will have significant financial implications for Local Authorities. As a London Borough we consider the proposals as set out in the consultation to be an unnecessary measure and raise objection to these being implemented. Paragraph 22 makes reference to proposed clearer policy on the benefits of using brownfield land for housing and therefore it would have been beneficial for the new wording to have been consulted upon.*
- 3.23 *In addition to the financial and resource implications for boroughs, it is important to note that whilst there is a need for more housing nationally, the consultation does not give consideration to other land uses which may also be competing for the same limited supply of land.*

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### **Supporting development on all small sites**

- 3.24 The Government wishes make it easier for applicants to secure permission in principle for development on small sites (less than 10 units). They propose to apply the approach for brownfield land to other small sites, provided the sites are within “existing settlement boundaries” and well-designed to promote or reinforce local distinctiveness. It is proposed to retain protection against unwanted development of back gardens. Proposals for development on small sites immediately adjacent to settlement boundaries should be carefully considered and supported if they are sustainable.
- 3.25 The consultation document asks if national planning policy should set out that local planning authorities should put in place a specific local policy for addressing applications for small sites.

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

### Suggested response

- 3.26 *Paragraph 24 does not specifically outline the types of small sites that are relevant in this section and this needs to be clarified. Where there are specific policies in the NPPF which indicate that development should be restricted e.g. Green Belt and Local Green Space, these should be excluded from the modified policy. In general, further clarification of the policy intention would be beneficial. The borough has a good record of providing small sites in suitable location and expects that this will continue to feature in the five-year land supply.*

**Question: Do you agree with the Government proposal to define a small site as a site of less than 10 units? If not, what other definition do you consider is appropriate, and why**

### Suggested response

- 3.27 *Within London a small site is defined as less than 0.25ha and is defined within the London-wide Strategic Housing Land Availability Assessment. Monitoring documents and five year housing land supply documents adhere to the latter definition so to change this to less than 10 units would not be beneficial.*
- 3.28 *Without a site size threshold, a small number of units could be built on a site which is considered to be “large”.*

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

Suggested response

- 3.29 *No, because each site should be treated on its own merits against Local Plan policies. Existing policies relating to new housing, design and visions and objectives can ensure that proposals are assessed on their own merits.*
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**Ensuring housing is delivered on land allocated in plans**

- 3.30 The Government recognise that there may be many reasons why homes cannot be built out at the anticipated rate of delivery, and it is important that there are sufficient incentives and tools in place to support the timely build out of consented development.
- 3.31 They acknowledge that driving up delivery rates depends on all partners playing their part. It is suggested that Local planning authorities can help to ensure that homes delivered match local requirements in a number of ways, including: allocating a good mix of sites in their Local Plans; efficient discharge of planning conditions; helping to resolve other blockages to development (such as other consents required); shortening the timescale by which development must begin; and ensuring a sufficient pipeline of deliverable planning permissions. The Government recognise that developers can also play their part, and are discussing with house builders and others what steps should be taken to drive faster build-out.
- 3.32 In order to drive up delivery rates of housing, the Government is looking to amend national planning policy to address significant shortfall between the homes provided for in Local Plans and the houses being built. The housing delivery test, introduced in the Autumn Statement 2015, will compare the number of homes that local planning authorities set out to deliver in their Local Plan is against the net additions in housing supply.
- 3.33 Under-delivery could be expressed as a percentage below expected delivery – this would be made over a two-year period so that it is not distorted by short-term fluctuations. To strengthen the incentive for delivery on consented sites, it is proposed to amend planning policy to make clear that where significant under-delivery is identified over a sustained period, action needs to be taken.
- 3.34 One approach could be to identify additional sustainable sites (or new settlements) - in sustainable locations, well served by infrastructure, and with clear prospects for delivery - if the existing approach is demonstrably not delivering the housing required.

**Question: We would welcome your views on how best to implement the housing delivery test, and in particular:**

- **What do you consider should be the baseline against which to monitor delivery of new housing?**
- **What should constitute significant under-delivery, and over what time period?**
- **What steps do you think should be taken in response to significant under-delivery?**
- **How do you see this approach working when the housing policies in the Local Plan are not up-to-date?**

### Suggested response

- 3.35 *The baseline by which to monitor the delivery of housing in London would be the relevant annual London Plan target.*
- 3.36 *A time period of two years is not long enough and there should be flexibility for boroughs to be able to discuss delivery figures in the context of what sites are being delivered at that point in time. For example, there may be cases where a large net loss (as a result of regeneration improvements) is going to come into effect over 1-3 years which has an impact on delivery targets. It would be overly onerous to expect boroughs to undergo a review of their Plan in this context if they were able to demonstrate that there are sufficient sites in place over the Plan period. Additionally, if a borough is having to undertake discussions regarding under-delivery this could have an adverse impact upon any existing five year housing supply document that is in place. Consequently this could result in the need for additional resources to defend schemes at appeal.*

### **Question: What would be the impact of a housing delivery test on development activity?**

- 3.37 *See above*
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### **Supporting delivery of starter homes**

- 3.38 Starter homes are to be made available at a minimum discount of 20% of market value for first-time buyers under the age of 40, on properties of up to £450,000 in London. They cannot be resold or let on the open market for five years.
- 3.39 National planning policy contains an exception site planning policy to release land specifically for starter homes. This allows applicants to bring forward proposals on unviable or underused commercial or industrial brownfield land not currently identified in the Local Plan for housing.

### **Unviable and underused commercial and employment land**

- 3.40 The Government intends to bring forward proposals to extend the current exception site policy, and strengthen the presumption in favour of starter home developments.
- 3.41 A proposed amendment to the NPPF would “make it clear that unviable or underused employment land should be released unless there is significant and compelling evidence to justify why such land should be retained for employment use.” This would require an up-to-date needs assessment and significant additional evidence of market demand. It could expect local planning authorities to adopt a policy with a clear limit on the length of time (such as 3 years) that commercial or employment land should be protected if unused and there is not significant and compelling evidence of market interest of it coming forward within a 2 year timeframe.
- 3.42 In addition, the Government propose to widen the scope of the current exception site policy for starter homes to incorporate other forms of unviable or underused brownfield land, such as land which was previously in use for retail, leisure and non-residential institutional uses (such as former health and educational sites).
- 3.43 To ensure there is greater certainty that planning permission will be granted for suitable proposals for starter homes on exception sites, it is proposed to amend the exception site policy to make it clearer that planning applications can only be rejected if there are overriding design, infrastructure and local environmental (such as flood risk) considerations that cannot be mitigated.



**Question: Do you consider that the starter homes exception site policy should be extended to unviable or underused retail, leisure and non-residential institutional brownfield land?**

Suggested response

- 3.44 *No, we have concerns that this risks these uses being deliberately run down and communities losing valuable social infrastructure. This is unlikely to be replaced if starter homes are exempt from CIL contributions.*

**Question: Do you support the proposal to strengthen the starter homes exception site policy? If not, why not?**

- 3.45 *No, we run the risk of permanently diminishing commercial land, many offices have already been converted to residential.*
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### **Encouraging starter homes within mixed use commercial developments**

- 3.46 The Government believes there is the potential to encourage a greater proportion of housing in general and starter homes in particular within mixed use commercial developments across the country, for example new town centre developments or existing town centre regeneration. Where existing mixed use commercial developments contain unlet commercial units, they could be converted to housing including as starter homes. There would need to be clear evidence that the unit has remained unlet for a reasonable period or there is little likelihood of the unit being let for a commercial use.

**Question: Should starter homes form a significant element of any housing component within mixed use developments and converted unlet commercial units?**

Suggested response

- 3.47 *We would not object to high standard starter homes being encouraged in town centres although the current policy facilitates this where appropriate. We would still want to protect primary retail frontages and would not support a change which would potentially undermine the vitality and viability of town centres.*
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### **Enabling communities to identify opportunities for starter homes**

- 3.48 Neighbourhood plans prepared by local communities should consider the opportunities for starter homes in their area. National planning policy currently considers limited affordable housing for local community needs as “not inappropriate” in the Green Belt, where this is consistent with policies in the Local Plan. It is proposed to amend current policy so that neighbourhood plans can allocate appropriate small-scale sites in the Green Belt specifically for starter homes.

**Question: Should local communities have the opportunity to allocate sites for small scale starter home developments in their Green Belt through neighbourhood plans?**

### Suggested response

- 3.49 *No, this would potentially undermine the strength and effectiveness of Green Belt policy. If, after five years, the starter homes can be sold on the open market, how will they continue to provide for local community needs which are justifying the policy change?*
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### **Brownfield land in the Green Belt**

- 3.50 The Government state that they are committed to protecting the Green Belt, and are maintaining the strong safeguards on Green Belt set out in national planning policy. However, they are considering the potential release of brownfield land in the Green Belt as part of the approach to delivering starter homes. They propose to change policy to support the regeneration of previously developed brownfield sites in the Green Belt providing this contributes to the delivery of starter homes, and subject to local consultation.
- 3.51 It is proposed to amend the paragraph 89 of the National Planning Policy Framework that prevents development of brownfield land where there is any additional impact on the openness of the Green Belt. It would be revised to state that development on such land may be considered *not inappropriate* development where any harm to openness is “not substantial”.

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

### Suggested response

- 3.52 *No, this would harm the openness of the Green Belt and undermine the strength and effectiveness of Green Belt policy. It is unclear how a starter home would cause any less harm to the Green Belt than any other type of home (and after five years it becomes a market home).*
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### **Transitional arrangements**

- 3.53 Other than for the amended definition of affordable housing, the Government do not consider that the proposed policy changes require a transitional period.

**Question: We would welcome your views on our proposed transitional arrangements.**

### Suggested response

- 3.54 *Additional evidence will be required to ensure that viable commercial, employment retail, leisure and non-residential institutions are not lost to starter homes for which there is no demonstrable need. It is considered that a transitional period should be allowed for this.*

## **4. POLICY IMPLICATIONS**

- 4.1 If the proposed changes are made to the NPPF, changes will be required to the emerging Local Plan and the CIL and affordable housing viability work. Additional evidence will be required in particular to demonstrate continuing need and viability for commercial, retail, leisure and non-residential institutional uses.

## 5. FINANCIAL IMPLICATIONS

- 5.1 At this stage it is not possible to quantify the financial implications of the proposed changes set out in the consultation.

## 6. LEGAL IMPLICATIONS

- 6.1 Any changes to the Government's National Planning Policy Framework would need to be reflected in the Council's development plan and planning decisions.

<b>Non-Applicable Sections:</b>	Personnel
Background Documents: (Access via Contact Officer)	Consultation on changes to the National Planning Policy Framework December 2015 Ministerial Statement on Starter Homes, March 2015 National Planning Guidance on Starter Homes Housing and Planning Bill 2015

Links:

Consultation on changes to the National Planning Policy Framework

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/488276/151207\\_Consultation\\_document.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/488276/151207_Consultation_document.pdf)

Ministerial Statement on Starter Homes, March 2015

<https://www.gov.uk/government/speeches/starter-homes>

National Planning Guidance on Starter Homes

<http://planningguidance.communities.gov.uk/blog/guidance/starter-homes/starter-homes-guidance/>

Housing and Planning Bill

<http://services.parliament.uk/bills/2015-16/housingandplanning.html>