



**BRIEFING PAPER**

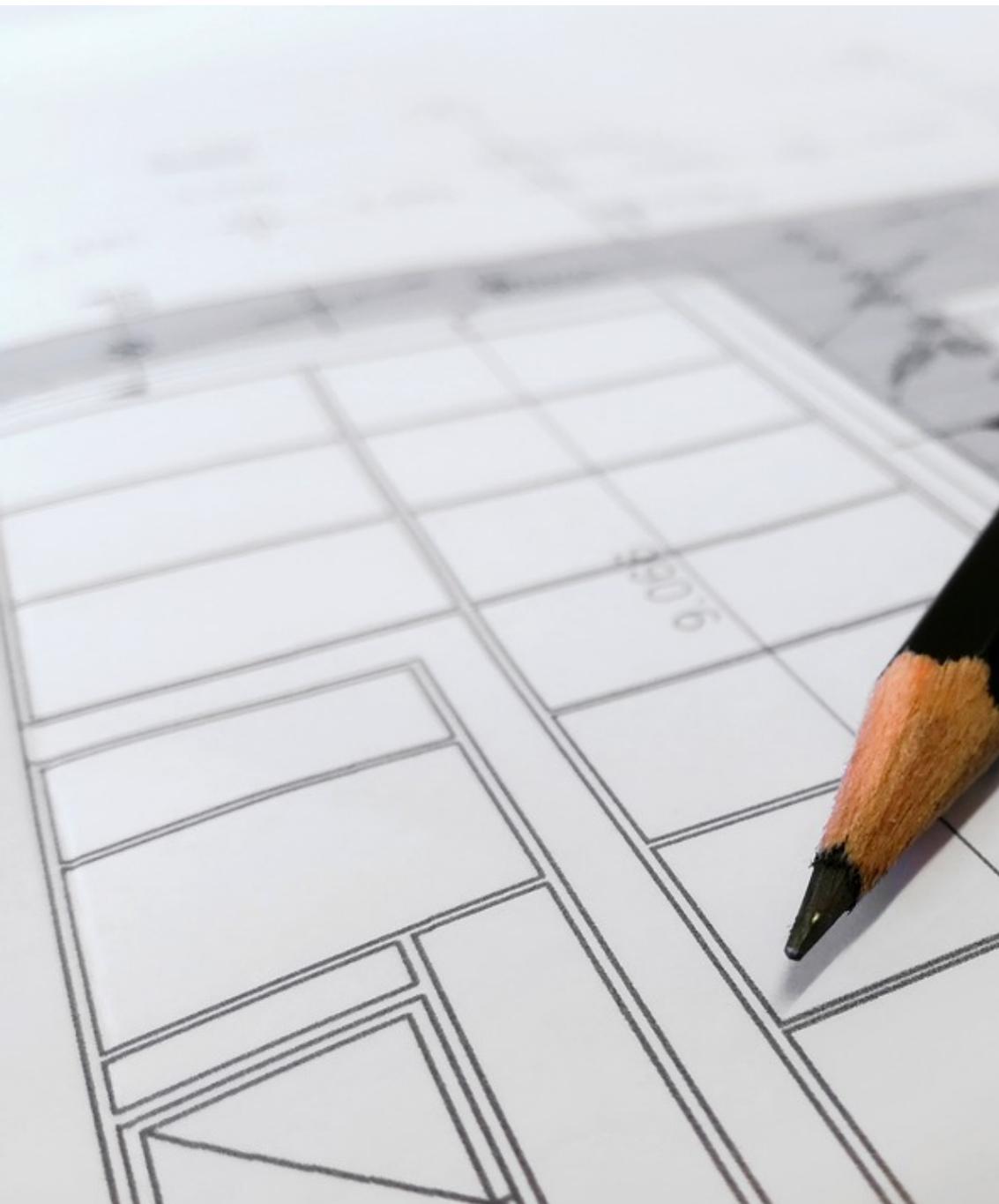
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# Planning Reform Proposals

By Louise Smith

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## Summary

This paper sets out the key planning reform proposals and those changes in the process of being made in respect of England. For information about changes in the other UK countries see the joint Library briefing paper [Comparison of the planning systems in the four UK countries: 2016 update](#).

The previous Conservative Government of the 2015-2017 Parliament made a number of changes to the planning system in the [Housing and Planning Act 2016](#), and the [Neighbourhood Planning Act 2017](#) with the aim of speeding up the delivery of new homes. Changes to the planning regime for onshore wind turbines were also made in the [Energy Act 2016](#), aimed at giving local communities a greater say about these developments. It also made a number of Budget announcements and published a number of consultations on planning reform.

The most recent and most wide-ranging of these was the Housing white paper, [Fixing our broken housing market](#), published in February 2017. The Government [consulted](#) on its proposals in the white paper, but had not issued a response before the 2017 general election. Responding to it and making changes will therefore be task for the new Government. Many of the planning related proposals in the white paper would be done by making changes to the NPPF. Some of the headline proposals from the white paper include:

- giving local authorities the opportunity to have their housing land supply agreed on an annual basis and fixed for a one year period;
- further consultation on introducing a standardised approach for local authorities in assessing housing requirements;
- changing the NPPF to introduce a housing delivery test which will highlight whether the number of homes being built is on target;
- increasing nationally set planning fees; and
- further consultation on introducing a fee for making a planning appeal.

Before the general election, in February 2017, a new consultation on [planning and affordable housing for build to rent](#) was published. The Government also published the report submitted by the [Community Infrastructure Review Group](#): a response to this report had been promised by the previous Government at the time of the Autumn Budget 2017.

The Conservative Party [2017 general election manifesto](#) contained pledges to support shale gas extraction and move major shale gas applications into the national planning regime. It also committed to deliver a million homes by the end of 2020, with half a million more by the end of 2022. Existing protections for green belt and areas of outstanding natural beauty would be maintained. A geospatial data body would be established within government, which would set standards to digitise the planning process. Following the election the Government has not yet confirmed whether it will take these proposals forward.

The Government has indicated that a consultation on proposals for a standardised approach to assessing housing requirements would be published [later in July 2017](#) and that [changes to planning policy in the NPPF](#) might be made towards the end of the year.

# 1. Key previous Government publications on planning

Following the election of the Conservative Government in May 2015, the following Government documents have proposed key planning related reforms:

- The [Conservative Party 2015 Manifesto](#)
- [Review of How the Planning System in England Can Support the Delivery of Mobile Connectivity: Call for Evidence](#), July 2015
- The Productivity Plan, "[Fixing the Foundations: Creating a more prosperous nation](#)" 10 July 2015
- The rural productivity plan, [Towards a one nation economy: A 10-point plan for boosting productivity in rural areas](#), August 2015. This was followed up by a February 2016 [Rural planning review: call for evidence](#).
- [Government response to the consultation and Invitation for views on further amendments to permitted development rights for petroleum exploration site investigation and monitoring](#), August 2015
- The [Autumn Statement](#), November 2015
- [Consultation on proposed changes to national planning policy](#), December 2015
- [Implementation of planning changes: technical consultation](#), 18 February 2016
- [Upward extensions in London](#), 18 February 2016
- The March [2016 Budget](#)
- The [Government's background briefing notes](#) to the Queen's Speech May 2016
- [Implementation of Neighbourhood Planning provisions in the Neighbourhood Planning Bill](#), 7 September 2016
- [Open consultation: Improving the use of planning conditions](#), 7 September 2016
- The Housing white paper, [Fixing our broken housing market](#), 7 February 2017

## Legislation

The previous Conservative Government has also passed the following Acts which made changes to the planning system:

- The [Energy Act 2016](#);
- The [Housing and Planning Act 2016](#); and
- The [Neighbourhood Planning Act 2017](#).

## The Housing white paper

The previous Conservative Government published its Housing white paper, [Fixing our broken housing market](#) on 7 February 2017. Its publication was preceded by a [statement in the House of Commons](#) about it from the Secretary of State with contributions from a range of Members. The Government is [consulted](#) on the proposals until 2 May 2017.

### Planning for housing

As well as a range of policies aimed at helping to diversify the housing market and home affordability, the white paper also focussed heavily on changes that can be made to planning law and policy. The Library briefing paper, [Planning for housing](#) provides further information about the existing policies on how local authorities are expected to calculate their housing supply, as well as the circumstances in which they are expected to provide an extra buffer in their calculations.

### Green belt

The white paper also set out that the existing protection for the **green belt** should remain unchanged and emphasised that authorities should amend Green Belt boundaries only when they can demonstrate that they have examined fully all other reasonable options for meeting their identified development requirements. Further information on existing green belt protection is available from the Library briefing paper, [Green belt](#).

### Planning for the right homes in the right places

The first chapter of the white paper contained measures on “planning for the right homes in the right places”. Some of the key proposals under this heading included:

- A further consultation to be published on making changes to the National Planning Policy Framework (NPPF) directing local authorities to prepare a **statement of common ground**, setting out how they intend to work together to meet housing requirements that cut across authority boundaries.
- Enabling **spatial development strategies** produced by new combined authorities or elected Mayors to allocate strategic sites for development.
- A further consultation to be published on introducing a **standardised approach for local authorities in assessing housing requirements**. The outcome will be reflected in changes made to the NPPF.
- Introducing legislation to allow locally accountable **New Towns Development Corporations** to be set up in order to better support new garden towns and villages.
- Revising the NPPF to make clear that plans and development proposals should make “efficient use of land and **avoid building homes at low densities**.”

### Building homes faster

Another chapter of the white paper is concerned with “building homes faster”. Some of its key proposals included:

- Amending the NPPF to give local authorities the opportunity to have their **housing land supply agreed on an annual basis** and fixed for a one year period, in order to create more certainty about when an adequate land supply exists. Authorities taking advantage of this will have to provide a 10% buffer on their 5 year land supply.
- **Increasing nationally set planning fees**, and consulting further on allowing authorities that are performing well on housing delivery to increase fees further.
- A further consultation to be published on introducing a **fee for making a planning appeal**, so as to deter unnecessary planning appeals and reduce delay.
- Examining the options for **reforming developer contributions** (Community Infrastructure Levy and section 106 obligations), with an announcement on this expected in the autumn Budget 2017.
- Subject to further consultation large housebuilders would be required to publish **aggregate information on build out rates** (the number of homes built per financial year).
- Seeking views on whether an applicant’s **track record of delivering previous similar housing schemes** should be taken into account by local authorities taking decisions on housing development.
- A further consultation on **simplifying the completion notice process** to allow a local authority to serve a completion notice on a site before the commencement deadline has elapsed, but only where works have begun, in order to dissuade developers from making a token start on work on site to keep the planning permission alive.
- Changing the NPPF to introduce a **housing delivery test** which will highlight whether the number of homes being built is on target. If delivery then falls below specified thresholds an extra buffer would be added onto the five-year land supply and further thresholds would then allow the presumption in favour of sustainable development to apply automatically.

A Government response to the Housing white paper consultation was not published before the general election.

### Initial reactions to the Housing white paper

A number of organisations have published their response to the white paper online. These include:

- Local Government Association, [Councils respond to Housing White Paper](#), 7 February 2017
- London Councils, [London Councils statement on Housing white paper](#), 7 February 2017

- Royal Town Planning Institute, [Housing White Paper: RTPI response](#), 7 February 2017
- Town and Country Planning Association, [Government commits to a new generation of new communities](#), 7 February 2017
- Campaign to Protect Rural England, [Housing white paper: CPRE reaction](#), 7 February 2017
- Joseph Rowntree Foundation, [Response to Housing white paper](#), 7 February 2017
- Home Builders' Federation, [White paper reflects key role private house builders have in addressing 'broken housing market'](#), 7 February 2017
- National Housing Federation, [Federation response to Housing white paper](#), 7 February 2017
- Nathaniel Lichfield & Partners, [NLP's review of the white paper](#), 8 February 2017
- Savills, [What the Housing white paper means for the planning system](#), 7 February 2017

## The Housing and Planning Act 2016

The Housing and Planning Act 2016 made a number of changes to the planning system. It received Royal Assent on 12 May 2016.

One of the key planning changes from this Act was the introduction of a new duty for local authorities to keep a register of brownfield land within its area. This in turn ties in with a new system of allowing the Secretary of State to grant "planning permission in principle" for housing on sites identified in these registers.

Planning "permission in principle" is a new process that grants planning permission for housing-led development. It separates the decision about the principle of whether housing development should be approved from a later technical details consent process. The in principle matters relate to the location, use, and amount of development on a site. It is expected that everything else will be reserved for the technical details consent stage. Planning permission in principle would then have to be combined with a new "technical details consent" granted by the local authority before development could go ahead.

The previous Conservative Government made a number of statutory instruments to implement the permission in principle policy. These came into force in April 2017 and include:

- [Housing and Planning Act 2016 \(Permission in Principle etc\) \(Miscellaneous Amendments\) \(England\) Regulations 2017](#);
- The [Town and Country Planning \(Permission in Principle\) Order 2017](#);
- The [Town and Country Planning \(Register of Previously Developed Land\) Regulations 2017](#).

The Government published non-statutory guidance, [Brownfield registers and permission in principle: frequently asked questions](#) on 21 April 2017

to set out how councils should manage their brownfield land registers. Statutory technical guidance is expected to be published in June 2017.<sup>1</sup>

## The Neighbourhood Planning Act 2017

The [Neighbourhood Planning Act 2017](#) received Royal Assent on 27 April 2017.

On **Neighbourhood Planning** the Act introduces a new procedure to allow Neighbourhood Plans to be modified. It also deals with the situation of where a new Neighbourhood Plan is needed, but covering a slightly different geographical area to the previous one. This part of the Act was also the subject of an open consultation, [Implementation of Neighbourhood Planning provisions in the Neighbourhood Planning Bill](#).

The Act provides that **pre-commencement planning conditions** can only be used by Local Planning authorities where they have the written agreement of the developer. If the developer does not agree to the pre-commencement condition then the local authority has the option to refuse the planning permission. These provisions were also the subject of a Government [Open consultation: Improving the use of planning conditions](#).

Measures are also included in relation to **compulsory purchase powers**. The Act introduces powers allowing the temporary possession of land and a duty to provide compensation for it. It aims to clarify case law on the definition of what is meant by a “no-scheme world” for the assessment of compensation. A time limit is set in the Act for an acquiring authority to issue a compulsory purchase confirmation notice. The Act also provides for Transport for London and the Greater London Authority to be able to acquire land through compulsory purchase on behalf of each other for mixed-use transport, housing and regeneration purposes. [Consultation](#) on these provisions concluded earlier in 2016.

A number of measures were added by the Government at Committee Stage in the House of Commons to provide greater powers of **intervention in relation to development plan documents** (Local Plan) making.

A new section was also added to **remove the existing permitted development rights** which allow drinking establishments, including **pubs**, to change use or to be demolished. This has now come into force, through the [Town and Country Planning \(General Permitted Development\) \(England\) \(Amendment\) \(No. 2\) Order 2017](#) from 23 May 2017.

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<sup>1</sup> HM Government, [Government response to the technical consultation on implementation of planning changes: Permission in principle and brownfield registers](#), March 2017, p6

## 2. Proposed changes yet to be made

The following section sets out the planning reform proposals which were announced by the previous Conservative Government (and in some cases the 2010-15 Coalition Government), but which were not implemented before the general election. We have not yet had confirmation since the general election about whether the changes will proceed as proposed under the new Government.

### 2.1 Section 106 contributions

Section 106 contributions, sometimes known as “planning obligations” or “planning gain” stem from agreements made under section 106 of the *Town and Country Planning Act 1990*. They are agreements made between the developer and the LPA to meet concerns about the costs of providing new infrastructure or affordable housing levels.

The [Autumn Statement 2014](#) and the [National Infrastructure Plan 2014](#) set out concern that the amount of time taken to negotiate section 106 obligations was a cause of delay in the planning process. In these documents the then Coalition Government said that it would introduce further measures on Section 106 negotiations to speed up the end-to-end planning process. Specifically this would include issuing revised guidance, consulting on a faster process for reaching agreement, and considering how timescales for agreement could be introduced, and improving transparency on the use of section 106 funds.<sup>2</sup>

A consultation, [Section 106 planning obligations - speeding up negotiations](#), was published on 20 February 2015. The consultation sought views on proposals on two issues:

- Speeding up the negotiation and completion of Section 106 planning obligations; and
- Whether the requirement to provide affordable housing contributions acts as a barrier to development providing dedicated student accommodation.

The Coalition [Government responded](#) to the consultation on 25 March 2015 and confirmed that it would make changes to the [National Planning Practice Guidance](#) to promote the use of standard clauses and promote greater use of pre-application engagement by all parties. This has now been done.

During the consultation process the then Government said that it wanted to understand whether developer contributions to affordable housing created a barrier to delivering dedicated student accommodation. It said that it would “undertake further discussions

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<sup>2</sup> HM Government, [National Infrastructure Plan 2014](#), December 2014, para 15.23

with relevant parties to further support dedicated student accommodation”.<sup>3</sup>

In the HM Treasury’s July 2015 Productivity Plan, [Fixing the foundations: Creating a more prosperous nation](#), the then Conservative Government announced its intention to introduce a dispute resolution mechanism for Section 106 agreements, in order to “speed up negotiations and allow housing starts to proceed more quickly.”<sup>4</sup> Provision for this has been included in sections 158 and 159 of the [Housing and Planning Act 2016](#), but these sections have not yet come into force.

The Government’s February 2017 [Government response](#), set out that an announcement on Section 106 reform was expected at the time of the forthcoming autumn Budget 2017:

The independent review of CIL [the Community Infrastructure Levy] and its relationship with Section 106 planning obligations, published alongside this White Paper, found that the current system is not as fast, simple, certain or transparent as originally intended. The Government will examine the options for reforming the system of developer contributions including ensuring direct benefit for communities, respond to the independent review and make an announcement at Autumn Budget 2017. The Government will consider dispute resolution further, in the context of this reform.<sup>5</sup>

For further information about section 106 obligations and the relationship with the Community Infrastructure Levy, see the Library briefing paper, [Planning Obligations \(Section 106 Agreements\)](#).

## 2.2 Community Infrastructure Levy

In November 2015 the then Government [announced](#) that Liz Peace, former chief executive at British Property Federation, would chair an independent group to conduct a review of the Community Infrastructure Levy (CIL). The purpose of this group was to assess the extent to which CIL does or can provide an effective mechanism for funding infrastructure, and to recommend changes that would improve its operation in support of the Government’s wider housing and growth objectives.<sup>6</sup>

The final report of the CIL Review Group, [Independent report: Community Infrastructure Levy review: report to government](#), (which was submitted originally to the Government in October 2016), was then published alongside the Housing white paper in February 2017. The Government stated that it would examine the options for reforming the system of developer contributions and would respond to the

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<sup>3</sup> HM Government, [Student accommodation and affordable housing contributions Government Response to consultation](#), March 2015, para 4

<sup>4</sup> HM Treasury, [Fixing the foundations: Creating a more prosperous nation](#), July 2015, para 9.17

<sup>5</sup> HM Government, [Summary of responses to the technical consultation on implementation of planning changes, consultation on upward extensions and Rural Planning Review Call for Evidence](#) 7 February 2017, para 6.17

<sup>6</sup> HM Government, [Review of the Community Infrastructure Levy: Terms of Reference](#), November 2015

independent review and make an announcement at Autumn Budget 2017.<sup>7</sup>

Alongside the CIL review group final report, the Government also published the following reports by The University of Reading and Three Dragons in association with Smiths Gore and David Lock Associates, which were commissioned by Government to inform the review of the Community Infrastructure Levy:

- [The value, impact and delivery of the Community Infrastructure Levy: Report of Study](#); and
- [The value, impact and delivery of the Community Infrastructure Levy: Technical Annex](#).

## 2.3 Local plans and housing requirements

### Housing delivery test

In the November 2015 [Autumn Statement](#), the then Government said that it will bring forward proposals for a “delivery test” on local authorities, to ensure delivery against the homes set out in Local Plans within a reasonable timeframe.<sup>8</sup>

As part of the proposals in the [Housing white paper](#), the Government consulted on making changes to the NPPF to introduce a new housing delivery test. This would highlight whether the number of homes being built is below target, provide a mechanism for establishing the reasons why, and where necessary trigger policy responses that would ensure that further land comes forward. Where under delivery is identified, the Government proposed the following approach:

Where under-delivery is identified as a result of this monitoring, **the Government proposes a tiered approach to addressing the situation that would be set out in national policy and guidance**, starting with an analysis of the causes so that appropriate action can be taken:

- From November 2017, if delivery of housing falls below 95% of the authority’s annual housing requirement, we propose that the local authority should publish an action plan, setting out its understanding of the key reasons for the situation and the actions that it and other parties need to take to get home-building back on track.
- From November 2017, if delivery of housing falls below 85% of the housing requirement, authorities would in addition be expected to plan for a 20% buffer on their five-year land supply, if they have not already done so.
- From November 2018, if delivery of housing falls below 25% of the housing requirement, the presumption in favour of sustainable development in the National Planning Policy Framework would apply automatically (by virtue of relevant planning policies being deemed out of date), which places additional emphasis on the need for planning

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<sup>7</sup> HM Government, [Fixing our broken housing market](#), 7 February 2017, para 2.29

<sup>8</sup> HM Government, [Spending review and autumn statement 2015](#), 27 November 2015, section 12

permission to be granted unless there are strong reasons not to.

- From November 2019, if delivery falls below 45% the presumption would apply.
- From November 2020, if delivery falls below 65% the presumption would apply.<sup>9</sup>

### Fixing housing land supply on an annual basis

In order to create more certainty for local authorities about whether an adequate five year housing land supply exists in their areas, the [Housing white paper](#) proposed that local authorities would be able to have it agreed on an annual basis and fixed for a one-year period:

Having considered the responses to that proposal, the Government will amend the National Planning Policy Framework to give local authorities the opportunity to have their housing land supply agreed on an annual basis, and fixed for a one-year period. To take advantage of this, the policy will make clear that the authority's assessment of its housing land supply should be prepared in consultation with developers as well as other interests who will have an impact on the delivery of sites (such as infrastructure providers). To ensure that these areas continue to bring forward enough land, the Government also proposes that authorities who wish to take advantage of this policy will need to provide for a 10% buffer on their 5 year land supply.<sup>10</sup>

### Requirement to plan for housing and strategic priorities

In the [Housing white paper](#) the Government proposed to remove the policy expectation that each local planning authority should produce a single local plan. Instead it would make clear that authorities should identify "the most effective way of setting out their key strategic priorities". The white paper also proposed to introduce a requirement for LPAs to plan for the housing allocations needed in their areas:

We also propose to set out in policy the key strategic priorities that every area is expected to plan for, which would be those listed already in the National Planning Policy Framework, with an additional requirement to plan for the allocations needed to deliver the area's housing requirement (except insofar as this requirement will be met through windfall development or more detailed plans).

A.17 We also want to ensure that spatial development strategies produced by new combined authorities or elected Mayors can be as effective as possible, without the need for policies to be duplicated in local plans. The Government therefore proposes that where these strategies require unanimous agreement of the members of the combined authority, regulations will allow them to allocate strategic sites.<sup>11</sup>

### Incentive to put in place a Local Plan

In the December 2015 [New Homes Bonus: Sharpening the Incentive: Technical Consultation](#) options were put forward to limit the circumstances when the New Homes Bonus would be paid. The aim of

<sup>9</sup> HM Government, [Fixing our broken housing market](#) 7 February 2017, p96-97

<sup>10</sup> HM Government, [Fixing our broken housing market](#) 7 February 2017, p90

<sup>11</sup> HM Government, [Fixing our broken housing market](#) 7 February 2017, p73

this was to “incentivise the impact of the Bonus”.<sup>12</sup> Specifically it was proposed that the New Homes Bonus allocations could be withheld from areas where no Local Plan has been produced.<sup>13</sup>

The then [Government’s response](#) was published in December 2016. It set out that the Government would not implement its proposal in 2017/18, but may do in the future:

15. The Government has carefully considered the responses and decided not to implement the proposal to withhold the New Homes Bonus for 2017/18 from local authorities who have not submitted a Local Plan.

16. As the Government is implementing wider planning reforms to get the nation building the homes it needs, including measures announced at Autumn Statement and through the Neighbourhood Planning Bill and forthcoming Housing White Paper, the Government has decided not to introduce the proposals to withhold payments for areas without a local plan in 2017-18. However, the Government will revisit the case for withholding New Homes Bonus from areas not delivering on housing growth from 2018-19.<sup>14</sup>

## Duty to cooperate

The *Localism Act 2011* introduced a legal “duty to co-operate” on Local Planning authorities in preparing plans that relate to “strategic matters” (including housing) that would have a significant impact on at least two planning areas. The different relevant bodies from these different areas are expected to demonstrate how they have worked together.

In the HM Treasury’s July 2015 Productivity Plan, [Fixing the foundations: Creating a more prosperous nation](#) the then Government said that it would “strengthen guidance to improve the operation of the duty to cooperate on key housing and planning issues, to ensure that housing and infrastructure needs are identified and planned for.”<sup>15</sup>

The Housing white paper acknowledged that in some parts of the country the duty to cooperate has “not been successful.”<sup>16</sup> It proposed, subject to consultation, to change the NPPF, so that authorities would be expected to prepare a Statement of Common Ground, setting out how they would work together to meet housing requirements and other issues that cut across authority boundaries.

## Housing on commuter hubs and commercial land

In the HM Treasury’s July 2015 Productivity Plan, [Fixing the foundations: Creating a more prosperous nation](#) the then Government said that it would consider how policy could support higher density housing around

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<sup>12</sup> HM Government, [New Homes Bonus: Sharpening the Incentive: Technical Consultation](#), 17 December 2015, p11

<sup>13</sup> HM Government, [New Homes Bonus: Sharpening the Incentive: Technical Consultation](#), 17 December 2015

<sup>14</sup> HM Government, [New Homes Bonus: Sharpening the Incentive: Government Response to the Consultation](#), December 2016

<sup>15</sup> HM Treasury, [Fixing the foundations: Creating a more prosperous nation](#), July 2015, para 9.11

<sup>16</sup> HM Government, Housing white paper, [Fixing our broken housing market](#), 7 February 2017, para 1.9

key commuter hubs and how it could ensure that unneeded commercial land could be released for housing.”<sup>17</sup>

The Government then put forward proposals in its December 2015 [Consultation on proposed changes to national planning policy](#) to direct LPAs to “require higher density development around commuter hubs wherever feasible.” The consultation sets out that the Government did not envisage introducing a minimum density requirement in national policy. This would be decided locally to be aimed at local needs. A formal definition of a commuter hub was also proposed.<sup>18</sup>

In the March 2016 Budget the Government announced that the Homes and Communities Agency would work in partnership with Network Rail and Local Authorities to bring forward land around stations for housing, commercial development and regeneration. Further details of this initiative were then provided in a Government press release from 10 April 2016, [Regeneration of stations set to deliver thousands of new properties and jobs](#).

A [Government response](#) to the December 2015 consultation was published in February 2017, alongside the Housing white paper. In it the Government confirmed its intention to “strengthen” planning policy to support higher-density housing in urban locations that are well served by public transport (such as around railway stations), but it declined to take forward the proposal to define formally a commuter hub.<sup>19</sup>

The consultation on the white paper sought views on what standards would be appropriate where densities are increased, and the locations in which this could happen.<sup>20</sup>

### **A standardised approach to housing requirement calculations**

Local authorities are directed to calculate their future housing requirements, but there is no specific methodology for them to use. The [Housing white paper](#) stated that this approach was “particularly complex and lacks transparency” and that it was a cause for delay in the planning system.<sup>21</sup>

The white paper consequently set out the Government’s intention to consult on options to introduce a standardised approach to assessing housing requirements:

1.14 We want councils to use the new standardised approach as they produce their plans and will incentivise them to do so. We expect councils that decide not to use the new approach to explain why not and to justify to the Planning Inspectorate the methodology they have adopted in their area. We will consult on what constitutes a reasonable justification for deviating from the

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<sup>17</sup> HM Treasury, [Fixing the foundations: Creating a more prosperous nation](#), July 2015, para 9.12

<sup>18</sup> HM Government, [Consultation on proposed changes to national planning policy](#) December 2015

<sup>19</sup> HM Government, Proposed Changes to NPPF (Dec 2015) - Summary of Consultation Responses, February 2017, p5-6

<sup>20</sup> HM Government, Housing white paper, [Fixing our broken housing market](#), 7 February 2017, para A.70

<sup>21</sup> HM Government, [Fixing our broken housing market](#), 7 February 2017, para 1.12

standard methodology, and make this explicit in the National Planning Policy Framework.

1.15 To incentivise authorities to get plans in place, in the absence of an up-to-date local or strategic plan we propose that by April 2018 the new methodology for calculating objectively assessed requirement would apply as the baseline for assessing five year housing land supply and housing delivery. In specific circumstances where authorities are collaborating on ambitious proposals for new homes, the Secretary of State would be able to give additional time before this new baseline applies. We will consult on these proposals.<sup>22</sup>

In a [speech](#) on 4 July 2017 to the Local Government Association (LGA) the Secretary of State for Communities and Local Government, Sajid Javid confirmed that a consultation on the White Paper's proposal to set out options for introducing a proposed standardised approach to assessing housing requirements would be launched later in the month:

Today I can confirm that this month we will launch a consultation on a new way for councils to assess their local housing requirements, as we promised in the housing white paper.

Our aim is simple: to ensure these plans begin life as they should, with an honest, objective assessment of how much housing is required.

That means a much more frank, open discussion with local residents and communities.

It also requires a new approach.

One that is straightforward, so everyone can understand the process.

One that is transparent, so decisions are not hidden behind complexity or bureaucracy.

And one that is consistent, so every community, from the biggest city to the smallest hamlet, can be confident their council is assessing housing need properly and fairly.

After all, nothing is more corrosive to trust than the idea that some areas are being treated better than others.

Where housing is particularly unaffordable, local leaders need to take a long, hard, honest look to see if they are planning for the right number of homes.<sup>23</sup>

## 2.4 Upward extensions

### London

In the HM Treasury's July 2015 Productivity Plan, [Fixing the foundations: Creating a more prosperous nation](#), the then Government confirmed its intention to provide a number of new planning powers for the Mayor of London. This included proposals to remove the need for planning permission for upwards extensions for a limited number of stories up to the height of an adjoining building, where neighbouring residents did not object. In cases where objections were received, the application

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<sup>22</sup> HM Government, [Fixing our broken housing market](#), 7 February 2017

<sup>23</sup> [Speech](#) by Sajid Javid to the Local Government Association, 4 July 2017

would be considered in the normal way, focussed on the impact on the amenity to neighbours.<sup>24</sup>

On 18 February 2016 the Government published a consultation on [Upward extensions in London](#). The consultation identified three proposals which could incentivise the use of upward extensions. These were: a new permitted development right; local development orders; and new London Plan policies. These would not be mutually exclusive proposals and Government indicated that they could work together.

In the March [Budget 2016](#) the Government announced that “following the consultation on building up in London and to help increase densities on brownfield land and reduce the need to ‘build out’, the government will consult with city regions on extending similar powers as part of devolution deals.”<sup>25</sup>

A [government response](#) to the upwards extension consultation was published on 7 February 2017, alongside the Housing white paper, [Fixing our broken housing market](#). The Government’s response confirmed its support for the principle of upward extensions, to be taken forward by making a policy change to the NPPF:

We welcome the support for the principle of upward extensions to existing premises to provide more homes in London. The responses have confirmed that there is potential to deliver more homes by increasing densities on brownfield land. It is clear that building up has a role to play in meeting the need for new homes across the country, not just in London, and the Housing White Paper proposes a package of measures to support building at higher densities and using land more efficiently for development. Our intention is therefore to take forward the policy option through the National Planning Policy Framework to support the delivery of additional homes by building up.<sup>26</sup>

The Housing white paper proposed to amend planning policy to encourage the avoidance of building at low density where there is a shortage of land for meeting identified housing needs. Further amendments would address the scope for higher density housing in urban locations that are well served by public transport.<sup>27</sup>

## 2.5 Rural areas

The previous Government’s August 2015 rural productivity plan, [Towards a one nation economy: A 10-point plan for boosting productivity in rural areas](#) announced a review of the planning and regulatory constraints facing rural businesses, as well as reviewing the current thresholds for permitted development change of use from agricultural to residential use. On 11 February 2016 the Government

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<sup>24</sup> HM Treasury, [Fixing the foundations: Creating a more prosperous nation](#), July 2015, paras 9.20 and 9.21

<sup>25</sup> HM Government, [Budget 2016](#), 16 March 2016, para 2.289

<sup>26</sup> HM Government, [Summary of responses to the technical consultation on implementation of planning changes, consultation on upward extensions and Rural Planning Review Call for Evidence](#), 7 February 2017, para 9.10

<sup>27</sup> HM Government, [Fixing our broken housing market](#), 7 February 2017

published a [Rural planning review: call for evidence](#) which asked for views on these areas.<sup>28</sup>

The Government's response to this part of the consultation was published in February 2017.<sup>29</sup> In this document the Government began further consultation on extending the existing thresholds for permitted development rights for agricultural development on units of 5 hectares or more. Permitted development rights allow for development without the need to apply for planning permission. Further information about these existing rights is available from the [Planning Permission for Farms](#) page of the Gov.uk website.

In the 2017 Response, the Government also began a consultation on a new agricultural to residential use permitted development right:

It is proposed that this would allow conversion of up to 750sqm, for a maximum of 5 new dwellings, each with a floor space of no more than 150sqm. The Government is seeking views on how best to ensure these properties meet local need. It also proposes amending the existing Class Q permitted development right to increase the existing threshold from 450sqm to 465sqm to bring it into line with the current permitted development right threshold for agricultural development.<sup>30</sup>

In the February 2017 Housing white paper the Government also set out its intention to change the NPPF in order to give stronger support for rural exception sites<sup>31</sup>:

give much stronger support for 'rural exception' sites that provide affordable homes for local people – by making clear that these should be considered positively where they can contribute to meeting identified local housing needs, even if this relies on an element of general market housing to ensure that homes are genuinely affordable for local people.<sup>32</sup>

## 2.6 Release of land for starter homes

The [Housing and Planning Act 2016](#) put into legislation the concept of a "starter home." In order to support further the building of new starter homes, in the November 2015 [Autumn Statement](#) the then Government said that it would amend planning policy to encourage the release of certain types of land for starter homes:

to ensure the release of unused and previously undeveloped commercial, retail and industrial land for Starter Homes, and support regeneration of previously developed, brownfield sites in the greenbelt, by allowing them to be developed in the same way

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<sup>28</sup> HM Government, [Rural planning review: call for evidence](#), 11 February 2016

<sup>29</sup> HM Government, [Summary of responses to the technical consultation on implementation of planning changes, consultation on upward extensions and Rural Planning Review Call for Evidence](#), 7 February 2017, p38-41

<sup>30</sup> HM Government, [Summary of responses to the technical consultation on implementation of planning changes, consultation on upward extensions and Rural Planning Review Call for Evidence](#), 7 February 2017, p41

<sup>31</sup> Rural exception sites are defined in the NPPF as being "small sites used for affordable housing in perpetuity where sites would not normally be used for housing."

<sup>32</sup> HM Government, [Fixing our broken housing market](#), 7 February 2017, p82

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as brownfield sites elsewhere, providing it delivers Starter Homes.<sup>33</sup>

In its December 2015 [Consultation on proposed changes to national planning policy](#) the Government sought views on changing planning policy to make clear that unviable or underused employment land should be released unless there was significant evidence to justify why such land should be retained for employment use. It also asked whether this should be extended to include unviable or underused retail, leisure and non-residential institutional brownfield land.

The consultation also proposed to amend national planning policy so that Neighbourhood Plans could allocate “appropriate small-scale sites” in the Green Belt specifically for starter homes, with neighbourhood areas having the discretion to determine the scope of a small-scale site.<sup>34</sup>

Another proposal was to change policy to support the regeneration of previously developed brownfield sites in the Green Belt. This would be done by allowing these sites to be developed in the same way as other brownfield land, providing this contributed to the delivery of starter homes, and subject to local consultation.<sup>35</sup>

The [Government’s response](#) to the consultation was published in February 2017.<sup>36</sup> Alongside it, the Housing white paper confirmed the then Government’s intention to make these changes:

4.18 Following our consultation in December 2015, we will also change the NPPF to allow more brownfield land to be released for developments with a higher proportion of starter homes by:

- a) bringing forward more vacant, unviable and unused employment land by introducing new rules for retaining employment land. We will make it clear that any proposal on employment land that has been vacant, unused or unviable for a period of five years, and is not a strategic employment site, should be considered favourably for starter home-led development.
- b) extending the current starter home exception site policy to include other forms of underused brownfield land – such as leisure centres and retail uses – while retaining limited grounds for refusal;
- c) allowing development on brownfield land in the Green Belt, but only where it contributes to the delivery of starter homes and there is no substantial harm to the openness of the Green Belt.

4.19 We will clarify that starter homes, with appropriate local connection tests, can be acceptable on rural exception sites.<sup>37</sup>

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<sup>33</sup> HM Government, [Spending review and autumn statement 2015](#), 27 November 2015, section 12

<sup>34</sup> HM Government, [Consultation on proposed changes to national planning policy](#), December 2015, p19-20

<sup>35</sup> HM Government, [Consultation on proposed changes to national planning policy](#), December 2015, p20

<sup>36</sup> HM Government, [Proposed Changes to NPPF \(Dec 2015\) - Summary of Consultation Responses](#), February 2017

<sup>37</sup> HM Government, [Fixing our broken housing market](#), 7 February 2017

The specialist publication, [Planning magazine](#), reported that the Government's chief planner, Steve Quartermain, had told a speech to the Country Land and Business Association (CLA) that proposed changes to the National Planning Policy Framework (NPPF) would be expected towards the "back end of the year" and that the revision would incorporate some of the ministerial statements published since the NPPF in 2012 that had made changes to planning policy.<sup>38</sup>

## 2.7 Affordable housing: change of definition

In its December 2015 [Consultation on proposed changes to national planning policy](#) the previous Government proposed to amend the definition of "affordable housing" as provided for currently in annex 2 of the [National Planning Policy Framework](#) (NPPF). The proposed change was intended to broaden the range of housing types which come under the definition, as follows:

9. We propose to amend the national planning policy definition of affordable housing so that it encompasses a fuller range of products that can support people to access home ownership. We propose that the definition will continue to include a range of affordable products for rent and for ownership for households whose needs are not met by the market, but without being unnecessarily constrained by the parameters of products that have been used in the past which risk stifling innovation. This would include products that are analogous to low cost market housing or intermediate rent, such as discount market sales or innovative rent to buy housing. Some of these products may not be subject to 'in perpetuity' restrictions or have recycled subsidy. We also propose to make clearer in policy the requirement to plan for the housing needs of those who aspire to home ownership alongside those whose needs are best met through rented homes, subject as now to the overall viability of individual sites.

10. By adopting the approach proposed, we are broadening the range of housing types that are taken into account by local authorities in addressing local housing needs to increase affordable home ownership opportunities. This includes allowing Local Planning authorities to secure starter homes as part of their negotiations on sites.<sup>39</sup>

The [Government's response](#) to the consultation was published in February 2017.<sup>40</sup> In it the Government proposed to extend the definition of "affordable housing" to include starter homes and other products. The Annex to the Housing white paper sought views on an updated definition of affordable housing, which included a revised definition of starter homes in relation to an income cap. Alongside that, the Government proposed to restrict the availability of starter homes to first time buyers with a mortgage. The proposed revised definition of

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<sup>38</sup> Quartermain: work on NPPF changes expected 'towards back end of the year' "[Planning](#), 5 July 2017

<sup>39</sup> HM Government [Consultation on proposed changes to national planning policy](#) December 2015

<sup>40</sup> HM Government, [Proposed Changes to NPPF \(Dec 2015\) - Summary of Consultation Responses](#), February 2017

affordable housing is set out in box 4 on page 100 of the Housing white paper.<sup>41</sup>

## 2.8 Consultation on planning and affordable housing for build to rent

A new consultation was published in February 2017 on [Planning and Affordable Housing for Build to Rent](#). The consultation sought views on planning measures to support an increase in Build to Rent schemes across England. This included changing the NPPF to support and to increase the number of new Build to Rent homes. The consultation closed on 1 May 2017 and a response has not yet been issued.

## 2.9 Presumption in favour of brownfield land

In its December 2015 [Consultation on proposed changes to national planning policy](#) the then Government proposed several changes to the NPPF to support certain types of housing in certain circumstances. These proposals included:

- Strengthening national planning policy to provide a more supportive approach for new settlements;
- To make clearer in national policy that “substantial weight” should be given to the benefits of using brownfield land for housing (in effect, a form of ‘presumption’ in favour of brownfield land). To make it clear that development proposals for housing on brownfield sites should be supported, unless overriding conflicts with the Local Plan or the National Planning Policy Framework could be demonstrated and could not be mitigated.
- To make clear that proposals for development on small sites (fewer than 10 units) immediately adjacent to settlement boundaries should be carefully considered and supported if they are sustainable.

In February 2016 the House of Lords Select Committee on National Policy for the Built Environment published a report, [Building Better Places](#). It recommended that the Government should consider “strengthening the priority given to brownfield development, including considering the reintroduction of a “brownfield first” policy at national level.”<sup>42</sup>

The Government responded to the Committee’s report in November 2016. It set out its intention to consult on a new “presumption in favour of housing on suitable brownfield land”. The Government also explicitly rejected the reintroduction of a more rigid “brownfield first” policy, saying that it would lead to the wrong type and size of dwelling being built in the wrong places.<sup>43</sup>

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<sup>41</sup> HM Government, [Fixing our broken housing market](#), 7 February 2017, p99-100

<sup>42</sup> House of Lords Select Committee on National Policy for the Built Environment February 2016, [Building Better Places](#) February 2016

<sup>43</sup> [Government Response to the Report of the House of Lords Select Committee on the Built Environment](#), November 2016, CM 9347

The [Government's response](#) to the December 2015 consultation was published in February 2017.<sup>44</sup> Further to this, the Housing white paper set out how planning policy would be changed to introduce a presumption that brownfield land within settlements was suitable for housing:

Going further, the presumption should be that brownfield land within settlements is suitable for housing unless there are clear and specific reasons to the contrary (such as high flood risk). To facilitate this, we will amend the National Planning Policy Framework to indicate that great weight should be attached to the value of using suitable brownfield land within settlements for homes, following the broad support for this proposal in our consultation in December 2015. In addition, our proposals for increasing the density of development set out in this White Paper will ensure that maximum use is made of brownfield sites that are suitable for homes.<sup>45</sup>

The [Government's response](#) to the December 2015 consultation highlighted that the original proposal to extend the presumption to small sites adjacent to existing settlements would not be taken forward:

...following careful consideration and in recognition of the potential harmful impacts to villages, the Government will not take forward proposals for extending the presumption in favour of sustainable development of small sites adjacent to existing settlements.<sup>46</sup>

## 2.10 Cutting red tape review

In December 2015 the former Government launched a [Cutting Red Tape](#) Review with the aim of examining the way that laws are enforced which relate to house building. The focus of this review was on:

1. roads and infrastructure rules for new housing developments
2. environmental requirements, particularly EU rules such as the Habitats Directive and wider EU environmental permit requirements
3. rules that affect utilities (such as electricity, gas and water – as well as broadband infrastructure).<sup>47</sup>

The [results of the review](#) was published in February 2017. This publication set out that the findings of the review formed “a significant input into the [housing] white paper.”<sup>48</sup> There are sections in the white paper relating to all of these areas as set out below.

### Roads and infrastructure requirements

On roads and infrastructure requirements in relation to new housing developments, the Housing white paper stated that the Government would “take a more coordinated approach across government to make

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<sup>44</sup> HM Government, [Proposed Changes to NPPF \(Dec 2015\) - Summary of Consultation Responses](#), February 2017

<sup>45</sup> HM Government, [Fixing our broken housing market](#), 7 February 2017, para A.42

<sup>46</sup> HM Government, [Proposed Changes to NPPF \(Dec 2015\) - Summary of Consultation Responses](#), February 2017, p9

<sup>47</sup> HM Government, [Cutting Red Tape review will give construction industry the foundations to get Britain building](#), 2 December 2015

<sup>48</sup> HM Government, [Cutting red tape review of house building](#), February 2017, p7

sure the right infrastructure is provided in the right places at the right time to unlock housing delivery”.<sup>49</sup>

### Protected species

In relation to environmental requirements, the white paper proposed replacing site by site licencing for protected species, such as great crested newts, with a new system of plan-level licencing as trialled by Woking Borough Council.<sup>50</sup> Natural England published a press release about this new approach at the same time as the white paper, [National roll-out of new approach to great crested newt licencing](#), 7 February 2017. The press release set out how this would involve a 3 year programme of surveying area where newts were most prevalent:

This new 3 year programme will survey areas where newts are most prevalent, map the potential impacts of development and propose local conservation strategies for the species in partnership. As part of the project, great crested newt habitat is enhanced or created prior to any development taking place, saving developers time and money, and making newt populations more healthy and resilient.

The press release also contained quotes from organisations such as Amphibian and Reptile Conservation, the Wildlife Trusts England and the Country Land and Business Association in support of this new initiative.

### Utility connection to new homes

On rules that affect utilities, the Housing white paper stated that the Government would review what more can be done to speed up utilities connections to new homes.<sup>51</sup> It also sought views on requiring local authorities to have planning policies setting out how high quality digital infrastructure will be delivered in their area.<sup>52</sup>

## 2.11 Changes to planning application fees

Planning fees in England are set nationally by the *Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) Regulations 2012* (S.I. 2012/2920), as amended.

In a [statement](#) on 8 February 2016 on the Local Government Finance Settlement, the Secretary of State for Communities and Local Government said that the department would “consult on allowing well-performing planning departments the possibility to increase their fees in line with inflation at the most, provided that the revenue reduces the cross-subsidy the planning function currently gets from other council tax payers.”<sup>53</sup>

The Government’s February 2016 [Implementation of planning changes: technical consultation](#) proposed a system whereby planning fees could

<sup>49</sup> HM Government, [Fixing our broken housing market](#), 7 February 2017

<sup>50</sup> HM Government, [Fixing our broken housing market](#), 7 February 2017, p40

<sup>51</sup> HM Government, [Fixing our broken housing market](#), 7 February 2017

<sup>52</sup> HM Government, [Fixing our broken housing market](#), 7 February 2017, Q19

<sup>53</sup> HC Deb 8 Feb 2016 [c1335](#)

be increased for Local Planning authorities which were “performing well”, linked to both inflation and performance.<sup>54</sup>

The consultation also sought views on how fees should be set in relation to the Government’s provision (now [Housing and Planning Act 2016](#)) to introduce pilot schemes for competition in the processing of applications for planning permission.

The [Government’s response](#) was published in February 2017. It said that it would introduce a 20% increase in fees for all authorities, not just for those performing well:

1.13 We are bringing forward a package of measures in the Housing White Paper to address concerns about local authority resourcing, including a 20% increase in planning application fees by summer 2017. Alongside these measures, we will continue to engage with areas interested in reforming their planning service and committing to performance improvements, in return for greater fee flexibility.<sup>55</sup>

Further to this, the Housing white paper confirmed a 20% increase in fees from July 2017 and also set out a new proposal to allow a further increase for authorities that were delivering homes:

2.15 We will increase nationally set planning fees. Local authorities will be able to increase fees by 20% from July 2017 if they commit to invest the additional fee income in their planning department. We are also minded to allow an increase of a further 20% for those authorities who are delivering the homes their communities need and we will consult further on the detail. Alongside we will keep the resourcing of local authority planning departments, and where fees can be charged, under review.<sup>56</sup>

## 2.12 Garden cities, towns and villages

The March [2016 Budget](#) announced that the Government would provide technical and financial support to areas that “want to establish garden villages and market towns of between 1,500 to 10,000 homes.”<sup>57</sup> It confirmed the intention to:

- provide capacity support for Local Authorities
- introduce new legislation that will speed up and simplify the process for delivering new settlements
- announce planning incentives to support areas seeking to bring forward new settlements, in return for commitments to significant housing delivery.<sup>58</sup>

At the same time as the Budget the then Government published a [prospectus](#) to invite expressions of interest from local authorities who want to create new communities based on garden city principles. The prospectus invited expressions of interest by 31 July 2016 for new

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<sup>54</sup> HM Government, [Implementation of planning changes: technical consultation](#), February 2016, p7-8

<sup>55</sup> HM Government, [Summary of responses to the technical consultation on implementation of planning changes, consultation on upward extensions and Rural Planning Review Call for Evidence](#), 7 February 2017, p1.13

<sup>56</sup> HM Government, [Fixing our broken housing market](#), 7 February 2017

<sup>57</sup> HM Government, [2016 Budget](#), 16 March 2016, para 1.124

<sup>58</sup> HM Government, [2016 Budget](#), 16 March 2016, para 2.285

'garden villages' of between 1,500 to 10,000 homes. It sets out the intention to support up to 12 new garden village proposals. The second part of the prospectus invited expressions of interest on a rolling basis in new garden towns and cities of more than 10,000 homes.

On 2 January 2017 the Government announced its list of new garden villages and towns in a press release, [First ever garden villages named with government support](#).

The Government's [Housing white paper](#) also emphasised support for new garden towns and villages and said that the Government would legislate to allow new town development corporations to be set up as delivery vehicles and that it would also further explore ways to streamline planning procedures:

A.57 To support the delivery of existing and any future garden communities, we will:

- ensure that decisions on infrastructure investment take better account of the opportunities to support new and existing communities;
- legislate to enable the creation of locally accountable New Town Development Corporations, enabling local areas to use them as the delivery vehicle if they wish to. This can strengthen local representation and accountability, and increase opportunities for communities to benefit from land value capture; and
- following the previous consultation on changes to the National Planning Policy Framework, amend policy to encourage a more proactive approach by authorities to bringing forward new settlements in their plans, as one means by which housing requirements can be addressed.

A.58 The Government is interested in the opportunities that garden cities, towns and villages might offer for bringing large-scale development forward in ways that streamline planning procedures and encourage locally-led, high quality environments to be created. The Centre for Policy Studies proposed the idea of 'pink zones' with this goal in mind. For example, local development orders or Development Corporations could give broad approval in advance for particular types of development, within an overall infrastructure framework. We would welcome views on how this potential can best be exploited.<sup>59</sup>

For further information about policy and announcements in this area see Library briefing paper, [Garden cities, towns and villages](#).

### 2.13 Completion notice reform

Planning consent will normally lapse unless "development" is started within three years. There is not normally any requirement that the development be completed by a certain date.

Section 94(1)(a) of the *Town and Country Planning Act 1990* enables a local planning authority to serve what is called a "completion notice". The completion notice will state that the planning permission will cease to have effect at the expiration of a further period specified in the

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<sup>59</sup> HM Government, [Fixing our broken housing market](#), 7 February 2017

notice. The threat to the developer is that the planning permission will expire unless the “development” is completed. The local authority does not have the power to require that the development should actually be completed.

The [Housing white paper](#) set out a desire by the then Government to give local planning authorities more effective tools to deal with circumstances where planning permission has been granted but no substantive progress had been made. To this end it proposed, subject to consultation, two potential changes to simplify and speed up the process for serving completion notices:

The Government proposes to amend legislation to remove the requirement for the Secretary of State to confirm a completion notice before it can take effect. Local authorities know their circumstances best, and removing central government involvement will help shorten the process, and give authorities greater control and certainty. The opportunity for a hearing will be retained where there are objections.

We also intend to amend legislation, subject to consultation, to allow a local authority to serve a completion notice on a site before the commencement deadline has elapsed, but only where works have begun. This change could dissuade developers from making a token start on site purely to keep the permission alive. However, it is important that this would not impact on the willingness of lenders to invest.<sup>60</sup>

## 2.14 Secretary of State planning decisions: time limit

The Secretary of State has powers to “call-in” planning applications from a local planning authority for his own determination and to “recover” planning appeals from the Planning Inspectorate, again for his own determination. Further information about both of these powers is set out in the Library briefing paper, [Calling in a planning application](#).

In the March [2016 Budget](#) the Government announced that it will set statutory 3 month deadlines for the Secretary of State’s decisions on called-in applications and recovered appeals to “prevent time-delays on decisions on infrastructure, housing and regeneration projects.”<sup>61</sup>

## 2.15 Fees for making a planning appeal

The [Housing white paper](#) set out the former Government’s concerns that unnecessary planning appeals could be a source of delay in the planning system and waste of taxpayer’s money. In view of this the white paper proposed to consult on introducing a fee for an applicant making a planning appeal:

We are interested in views on this approach and in particular whether it is possible to design a fee in such a way that it does not discourage developers, particularly SMEs, from bringing forward legitimate appeals. One option would be for the fee to be capped, for example at a maximum of £2000 for the most

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<sup>60</sup> HM Government, [Fixing our broken housing market](#), 7 February 2017, p96

<sup>61</sup> HM Government, March [2016 Budget](#), para 2.292

expensive route (full inquiry). All fees could be refunded in certain circumstances, such as when an appeal is successful, and there could be lower fees for less complex cases.<sup>62</sup>

The Housing white paper consultation specifically sought views on:

- a) how the fee could be designed in such a way that it did not discourage developers, particularly smaller and medium sized firms, from bringing forward legitimate appeals;
- b) the level of the fee and whether it could be refunded in certain circumstances, such as when an appeal is successful; and
- c) whether there could be lower fees for less complex cases.<sup>63</sup>

### 2.16 Green belt

In the [Housing white paper](#) the then Government said that “Green Belt is highly valued by communities, particularly those on the edge of urban areas.”<sup>64</sup> The Government emphasised its aim, in view of this, to maintain existing protections for the Green Belt, and clarify that Green Belt boundaries should be amended only in exceptional circumstances. The Government proposed to amend the NPPF as follows:

...to make clear that authorities should amend Green Belt boundaries only when they can demonstrate that they have examined fully all other reasonable options for meeting their identified development requirements, including:

- making effective use of suitable brownfield sites and the opportunities offered by estate regeneration;
- the potential offered by land which is currently underused, including surplus public sector land where appropriate;
- optimising the proposed density of development; and
- exploring whether other authorities can help to meet some of the identified development requirement.

A.62 The Government also proposes to amend the National Planning Policy Framework to indicate that where land is removed from the Green Belt, local policies should require the impact to be offset by compensatory improvements to the environmental quality or accessibility of remaining Green Belt land.<sup>65</sup>

The white paper also proposed to make a number of other “clarifications” to green belt policy in the NPPF, which are set out on page 85 of the white paper.

For further information about green belt planning policy and the differing views on the level of protection it should be afforded see Library briefing paper, [Green Belt](#).

### 2.17 Neighbourhood planning

Some of the proposals in the [Housing white paper](#) relate to changing the NPPF in relation to neighbourhood plan policy. Subject to the consultation, this would include: providing a requirement for local

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<sup>62</sup> HM Government, [Fixing our broken housing market](#), 7 February 2017, p38

<sup>63</sup> HM Government, [Fixing our broken housing market](#), 7 February 2017, p92

<sup>64</sup> HM Government, [Fixing our broken housing market](#), 7 February 2017, para A.59

<sup>65</sup> HM Government, [Fixing our broken housing market](#), 7 February 2017, p84

planning authorities to provide neighbourhood plan groups with a housing requirement figure; and making clear the design expectations that neighbourhood plans are expected to provide.<sup>66</sup>

## 2.18 Developer's track record

The [Housing white paper](#) sought views on whether an applicant's track record of delivering previous housing schemes should be taken into account by local authorities when determining planning applications for housing development.<sup>67</sup>

## 2.19 Sustainable development and the environment

### Climate change

In relation to climate change the [Housing white paper](#) asked for views on including in the NPPF reference to rising temperatures in the list of climate change factors to be considered during plan-making. It also proposed to clarify that local planning policies should support measures for the future resilience of communities and infrastructure to climate change.<sup>68</sup>

### Flood risk

The white paper also sought views on amending planning policy in relation to flood risk. The aim was to clarify that planning policies to manage flood risk should, where relevant, "also address cumulative flood risks which could result from the combined impacts of a number of new but separate developments in (or affecting) areas identified as susceptible to flooding."<sup>69</sup>

### Noise

In relation to noise, the white paper sought views on proposals to amend the NPPF to emphasise that planning policies and decisions should take account of existing businesses and other organisations when locating new development nearby and, where necessary, to mitigate the impact of noise and other potential nuisances arising from existing development. The aim of this is to help mitigate the risk of restrictions or possible closure of existing businesses and other organisations due to noise and other complaints from occupiers of new developments.<sup>70</sup>

## 2.20 Basement development

On 4 November 2016 the then Government published a call for evidence, [Basement Developments and the Planning System](#). This was in response to concerns raised during debates on the Housing and Planning Act 2016 about the clarity of the law relating to basement

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<sup>66</sup> HM Government, [Fixing our broken housing market](#), 7 February 2017, p86

<sup>67</sup> HM Government, [Fixing our broken housing market](#), 7 February 2017, p95

<sup>68</sup> HM Government, [Fixing our broken housing market](#), 7 February 2017, p102

<sup>69</sup> HM Government, [Fixing our broken housing market](#), 7 February 2017, p103

<sup>70</sup> HM Government, [Fixing our broken housing market](#), 7 February 2017, p103

developments. The document sought evidence on the number of basement developments being taken forward: how these developments were being dealt with through the planning system; and whether any adverse impacts of such developments could be further mitigated through the planning process. The consultation closed on 16 December 2016 and a Government response has not yet been issued.

## 2.21 Designation for poor performance

The *Growth and Infrastructure Act 2013* provided that applicants for major developments could apply direct to the Secretary of State (in practice a Planning Inspector), rather than the Local Planning authority, where the LPA has been officially “designated”, by the Secretary of State, for having a record of very poor performance in the speed or quality of its decisions on *major* development applications. Major development is defined in section 2 of the [Town and Country Planning \(Development Management Procedure\) \(England\) Order 2015](#).

Since the introduction of the 2013 Act, Blaby, Trafford and Bromsgrove councils have been designated under this legislation, with the designations now removed from Blaby and Trafford.<sup>71</sup>

Provision in the Housing and Planning Act 2016 extended the Government’s ability to designate in relation to *non-major* applications. The February 2016 [Implementation of planning changes: technical consultation](#) proposed the following threshold ranges for designation in relation to non-major applications:

1. speed of decisions: where authorities fail to determine at least 60-70 per cent of applications for non-major development on time, over the two year assessment period, they would be at risk of designation
2. quality of decisions: where authorities have had more than 10-20 per cent of their decisions on applications for non-major development overturned at appeal, they would be at risk of designation.<sup>72</sup>

The previous Government’s response to this part of the consultation was published on 22 November 2016, [Explanatory Memorandum to Improving Planning Performance: Criteria for Designation \(Revised 2016\)](#). It confirmed that the Government would go ahead with the proposal to extend the designation regime to applications for non-major development. The intention is to set the designation thresholds as follows:

Setting the threshold for the speed of decisions on applications for non-major development at 65 per cent for the next designation round in early 2017 is intended to give local authorities time to adjust to the extension of the designation regime to non-major applications. We expect to increase the threshold over time as local authorities’ performance improves to

<sup>71</sup> “How special measures councils have responded to the loss of planning powers” [Planning](#) 9 October 2015

<sup>72</sup> HM Government, [Implementation of planning changes: technical consultation](#) 18 February 2016, p46

encourage continuous improvement, and have set the threshold at 70 per cent for the following designation round in early 2018.

In relation to the quality of decisions the Government also confirmed that a threshold of 10 per cent of decisions on applications for non-major development overturned at appeal would also be set, but not until the designation round in early 2018.<sup>73</sup>

## 2.22 Draft airports national policy statement

On 2 February 2017 the former Government published its [draft Airports National Policy Statement \(NPS\)](#). This was accompanied by a number of [technical reports](#) and a formal consultation, [Consultation on Draft Airports National Policy Statement: new runway capacity and infrastructure at airports in the South East of England](#), which closed on 25 May 2017. Once it is formally adopted, the Airports NPS will form the policy basis for assessing future planning applications for airport expansion in the South East. The draft Airports National Policy Statement sets out:

- the need for additional airport capacity in the south-east of England;
- why government believes that need is best met by a north-west runway at Heathrow Airport; and
- the specific requirements that the applicant for a new north-west runway will need to meet to gain development consent.

The Airports NPS will also need to undergo a process of Parliamentary scrutiny before it can become formally adopted by Government.

Under section 9 of the Planning Act 2008 if either House of Parliament makes a resolution with regard to a proposed NPS, or a committee of either House of Parliament makes recommendations with regard to the a proposed NPS, the Secretary of State must lay before Parliament a statement setting out his response to the resolution or to the recommendations.

House of Commons standing order 152H ([11 October 2016 addendum version](#)), shows that an NPS can be considered by either a designated select committee or a dedicated National Policy Statement Committee can be established.

In a written statement to Parliament on 2 February 2017, before the announcement of the 2017 general election, the Government set out the following proposed timetable for scrutiny and designation of the airports NPS:

At the same time, and as required by the Planning Act 2008, a period of Parliamentary scrutiny (the 'relevant period') now begins for the Airports National Policy Statement, ending by summer recess 2017.

I will be placing copies of all relevant documents in the Libraries of both Houses. Following consultation and Parliamentary scrutiny,

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<sup>73</sup> HM Government, [Improving planning performance: Criteria for designation](#) (revised 2016), November 2016

and assuming that in the light of these processes the decision is made to proceed, we expect to lay a final Airports National Policy Statement before Parliament for debate and an expected vote in the House of Commons by winter 2017-18.<sup>74</sup>

For further information about Heathrow airport expansion see Library briefing paper, [Heathrow expansion](#), 24 April 2017. Further information about national policy statements and the process of gaining a development consent order is set out in the Library briefing paper [Planning for Nationally Significant Infrastructure Projects](#).

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<sup>74</sup> HM Government, [Airport capacity and airspace policy](#), 2 February 2017

## 3. Conservative Party 2017 manifesto pledges on planning

The [Conservative Party manifesto](#) for the 2017 general election made a number of pledges commitments in relation to planning:

### Shale gas and drilling

“We will legislate to change planning law for shale applications. Non-fracking drilling will be treated as permitted development, expert planning functions will be established to support local councils, and, when necessary, major shale planning decisions will be made the responsibility of the National Planning Regime.

We will set up a new Shale Environmental Regulator, which will assume the relevant functions of the Health and Safety Executive, the Environment Agency and the Department for Business, Energy and Industrial Strategy. This will provide clear governance and accountability, become a source of expertise, and allow decisions to be made fairly but swiftly.”<sup>75</sup>

### Housing

“We will meet our 2015 commitment to deliver a million homes by the end of 2020 and we will deliver half a million more by the end of 2022. We will deliver the reforms proposed in our Housing White Paper to free up more land for new homes in the right places, speed up build-out by encouraging modern methods of construction and give councils powers to intervene where developers do not act on their planning permissions; and we will diversify who builds homes in this country.”

(...)

“We will build better houses, to match the quality of those we have inherited from previous generations. That means supporting high-quality, high-density housing like mansion blocks, mews houses and terraced streets. It means maintaining the existing strong protections on designated land like the Green Belt, National Parks and Areas of Outstanding Natural Beauty. It means not just concentrating development in the south-east but rebalancing housing growth across the country, in line with our modern industrial strategy. It means government building 160,000 houses on its own land. It means supporting specialist housing where it is needed, like multigenerational homes and housing for older people, including by helping housing associations increase their specialist housing stock.”<sup>76</sup>

### Digital planning process

“And we will use digital technology to release massive value from our land that currently is simply not realised, introducing greater specialisation in the property development industry and far greater transparency for buyers. To make this happen, we will combine the relevant parts of HM Land Registry, Ordnance Survey, the Valuation Office Agency, the Hydrographic Office and Geological Survey to create a comprehensive geospatial data body within government, the largest repository of open land data in the

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<sup>75</sup> Conservative and Unionist Party [General Election Manifesto 2017](#), May 2017, p23

<sup>76</sup> Conservative and Unionist Party [General Election Manifesto 2017](#), May 2017, p70-71

world. This new body will set the standards to digitise the planning process and help create the most comprehensive digital map of Britain to date.”<sup>77</sup>

Following the election the Government has not yet confirmed whether it will take these proposals forward.

### 3.1 Queen’s speech 2017 commitments

In the [background briefing notes](#) to the June 2017 Queen’s Speech, the Government set out that it would take certain elements of the White Paper forward:

In February we published a Housing White Paper, which proposes end-to-end action across the whole housing system, with measures to:

- release more land for homes where people want to live;
- build the homes we need faster;
- get more people building homes;
- support people who need help now.

We will deliver the reforms proposed in the White Paper to increase transparency around the control of land, to “free up more land for new homes in the right places, speed up build-out by encouraging modern methods of construction and diversify who builds homes in the country” (p.70).<sup>78</sup>

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<sup>77</sup> Conservative and Unionist Party [General Election Manifesto 2017](#), May 2017, p72

<sup>78</sup> HM Government [background briefing notes](#) to the June 2017 Queen’s Speech, p72

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