



BRIEFING PAPER

Number 06418, 27 March 2017

Planning Reform Proposals

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Summary

This paper sets out the Government's 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](#).

Following the election of the Conservative Government in May 2015 there have been a number of planning related consultations and announcements. Changes to the planning system by this Government have already been made in the [Housing and Planning Act 2016](#) and the [Energy Act 2016](#). While many of the provisions in the Housing and Planning Act 2016 are now in force, they contain a number of regulation making powers which have not yet been implemented. Further information about the policies that these regulations may contain can be found in the Government's February 2016 [Implementation of planning changes: technical consultation](#).

In the December 2015 [Consultation on proposed changes to national planning policy](#) the Government proposed a number of changes to the National Planning Policy Framework (NPPF), to support the development of housing on certain types of land.

Further reform to the planning system is provided in the [Neighbourhood Planning Bill 2016-17](#) which is progressing through Parliament. The Bill will make some changes to the neighbourhood planning system, the use of pre-commencement planning conditions and the compulsory purchase process. The aim is to speed up the delivery of new homes. For further information see Library briefing papers:

- [Commons Library analysis of the Neighbourhood Planning Bill](#), 28 September 2016; and
- [Neighbourhood Planning Bill: Report on Committee Stage](#), 16 November 2016.

A Housing white paper, [Fixing our broken housing market](#) was published in February 2017. The Government is [consulting](#) on the proposals and responses can be submitted until 2 May 2017. Many of the planning related proposals in the white paper would be done by making changes to the NPPF. Many of them respond to the policies put forward from the previous December 2015 and February 2016 consultations. 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.

Alongside the white paper, the Government also published a number of responses to outstanding consultations and select committee reports. A new consultation on [planning and affordable housing for build to rent](#) was published and the Government also published the report submitted by the [Community Infrastructure Review Group](#). A response to this report has been promised at the time of the Autumn Budget 2017.

1. Key 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 Government has also passed the following Acts which make changes to the planning system:

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

The [Neighbourhood Planning Bill 2016-17](#) makes a number of planning changes and is currently progressing through Parliament (see section 3 below for further information).

The Housing white paper

The 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 [consulting](#) on the proposals in the white paper and responses can be submitted 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 focusses 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 sets out that the existing protection for the **green belt** remains unchanged and emphasises 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 contains measures on “planning for the right homes in the right places”. Some of the key proposals under this heading include:

- 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 include:

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- 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.

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

7 Commons Library Briefing, 27 March 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

2. Housing and Planning Act 2016

On publication of the then *Housing and Planning Bill* the Government said it would kick-start a “national crusade to get 1 million homes built by 2020” and transform “generation rent into generation buy.” The supply-side measures in the Bill are primarily focused on speeding up the planning system with the aim of delivering more housing. There is also a clear focus on home ownership, with measures to facilitate the building of Starter Homes and self/custom build housing.

The Bill was presented on 13 October 2015 and received Royal Assent on 12 May 2016. The planning provisions of the Act are outlined in the sections below, and are explored in more detail in the Library briefing papers:

- [Housing and Planning Bill 2015-16](#);
- [Housing and Planning Bill: Report on Committee Stage](#); and
- [Housing and Planning Bill: Lords amendments and Ping Pong](#).

On 18 February 2016 the Government published an [Implementation of planning changes: technical consultation](#) which set out the Government’s proposed content of future secondary legislation made under various different parts of the Act.

The following sections of the Act on planning came into force from the day the Act received Royal Assent:

- Local planning authority duty to keep a register of particular kinds of land;
- The setting of fees for planning applications;
- Processing of planning applications by alternative providers; and
- Urban development corporations

A number of the other planning provisions in the Act have since come into force through further secondary legislation. Those provisions where a commencement date has yet to be appointed include:

- Sections 158 and 159 on planning obligations;
- Sections 180 and 181 on compulsory purchase order confirmation and time limits;
- Sections 192-198 on compulsory purchase compensation

The sections below outline the planning provisions in the Act where there are outstanding proposals or further regulations to be made in respect of them.

Starter homes

The Act put into legislation the Government’s intention to provide a number of Starter Homes, sold at a discount, for first-time buyers under the age of 40. Starter Homes would be sold at a discount of at least 20% of the market value. Specifically, the Act puts a general duty on all planning authorities to promote the supply of Starter Homes, and allows for the provision of a specific duty, to be determined in later

regulations, to require a certain number or proportion of Starter Homes on site.

On 23 March 2016 the Government published a [Starter homes regulations: technical consultation](#) which closed on 18 May 2016. The consultation asked for views on the content of these regulations. This included proposals for a new requirement of 20% of new homes to be provided as starter homes on sites above a specified size.

The [Starter homes regulations: government response to the technical consultation](#) was published on 7 February 2017. It stated that the Government had decided not to implement a compulsory starter homes requirement at this point in time. The Government will commence the general duty on local authorities to promote the supply of starter homes and will bring forward regulations to finalise the starter homes definition and monitoring provisions.

As part of its [consultation](#) on the housing white paper, the Government has asked for views on its intention to introduce a household income eligibility cap of £80,000 (£90,000 for London) on starter homes through changes to the National Planning Policy Framework (NPPF).

Small sites register

In its February 2016 [Implementation of planning changes: technical consultation](#) the Government proposed that local authorities should keep a register of “small sites” in their areas. Under the proposal small sites should be between one and four plots in size and that sites should just be entered on the small sites register when a local authority is aware of them, without any need for a suitability assessment.

The [Government's response](#) to this part of the consultation was published on 7 February 2017.¹ It announced that it would not go ahead with the requirement for local authorities to keep a small sites register at this time, “given the views and concerns raised”. It stated that the intention would be first explore with local planning authorities and the commercial sector the information they are currently making available on small sites and whether they are able to provide greater transparency. The Government's response states that then, “If necessary, we will then look again at whether to require local planning authorities to hold a small sites register.”²

Local Plans

With the aim of encouraging more local authorities to have a Local Plan in place, the Act gives the Secretary of State further powers to intervene in the Local Plan making process. Specifically it would allow the Secretary of State to intervene if a local authority was failing or omitting to do anything it is necessary for them to do in connection with the preparation, revision or adoption of a Local Plan.

¹ 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

² Ibid, p14

The Government's [Implementation of planning changes: technical consultation](#) proposed to prioritise Government intervention where:

1. there is under delivery of housing in areas of high housing pressure;
2. the least progress in plan-making has been made;
3. plans have not been kept up-to-date;
4. intervention will have the greatest impact in accelerating Local Plan production.³

The [Government's response](#) was published on 7 February 2017.⁴ It highlighted how the powers of intervention in local plan making from the Neighbourhood Planning Bill and the proposals in the housing white paper are the Government's preferred solution to local plan intervention and getting local authorities to set out their "key strategic priorities" in a policy document.⁵

Planning "permission in principle" and local registers of land

Planning permission in principle

Planning "permission in principle" is a new process that will grant 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.

With a view to enabling more housing to be built on brownfield land the Act introduces a new duty for local authorities to keep a register of brownfield land within its area. This would then tie 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 would then have to be combined with a new "technical details consent" granted by the local authority before development could go ahead.

In its February 2016 [Implementation of planning changes: technical consultation](#) the Government proposed that there should be three "qualifying documents" that would be capable of granting permission in principle. These are: future Local Plans; future Neighbourhood Plans; and brownfield registers.

Permission in principle granted from these documents would last for five years. It was also proposed that applicants for minor development should be able to apply for permission in principle on application. The consultation proposed that the "in principle matters" should relate to

³ HM Government, [Implementation of planning changes: technical consultation](#) 18 February 2016, p41-42

⁴ 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

⁵ HM Government, [Fixing our broken housing market](#), 7 February 2017, paras3.10-11

the location, the uses and the amount of development on a particular site.

In relation to the registers of brownfield land, the consultation proposed that a “key component” of the evidence base for this work would be the local authority’s Strategic Housing Land Availability Assessment process. The definition of brownfield land would be land which meets the definition of “previously developed land”, as defined in Annex 2 of the NPPF. Sites would also be assessed against specific criteria that would be set out in regulations to ensure that they are suitable for housing. The Government expects the register to be updated on an annual basis.

The consultation restated the Government’s aim to ensure that 90% of suitable brownfield sites have planning permission for housing by 2020. It also made clear the Government’s intention to introduce measures to ensure that progress is made against this target by local authorities. Specifically it proposed that Local Planning authorities that had failed to make sufficient progress against the brownfield objective would be unable to claim the existence of an up-to-date five year housing land supply when considering applications for brownfield development, and therefore the [NPPF’s](#) presumption in favour of sustainable development would apply. The presumption means that planning permission should be granted unless “any adverse impacts of doing so would significantly and demonstrably outweigh the benefits [...] or specific policies in this Framework indicate development should be restricted.”⁶ A response to this part of the consultation has not yet been issued.

The Government has stated that a number of statutory instruments will need to be made in order to implement the permission in principle policy.⁷ The Government’s intention is to lay these instruments during 2017 and will 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 (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) (Amendment) Regulations 2017; and
- The Town and Country Planning (Register of Previously Developed Land) Regulations 2017.⁸

Permitted development rights

The Act allows a prior approval process to be introduced for building operation permitted development rights and other development orders.

⁶ HM Government, [National Planning Policy Framework](#), March 2012, para 14

⁷ HM Government, [Explanatory memorandum](#) to the Housing and Planning Act 2016 (Permission in Principle etc) (Miscellaneous Amendments) (England) Regulations 2017, p2

⁸ HM Government, [Explanatory memorandum](#) to the Housing and Planning Act 2016 (Permission in Principle etc) (Miscellaneous Amendments) (England) Regulations 2017, p2

The idea is to allow local authorities greater scope to take into account local conditions and sensitivities before these rights can be used.

Nationally significant infrastructure projects and housing

At present a development consent order (DCO) for a nationally significant infrastructure project (NSIP) cannot grant consent for housing. The Act will change this so that the DCO could grant consent for housing which is linked to an application for an NSIP for example, for housing provided for workers during the construction or operation phase of a NSIP. The Act will also allow for consent to be granted for housing where there is no functional link, but where there is a close geographical link between the housing and the NSIP.

The Government's March 2016 [National Infrastructure Delivery Plan 2016–2021](#) said that this provision would allow up to 500 dwellings included alongside infrastructure in a single DCO application.

Further information is provided in the Government's October 2015 [Nationally significant infrastructure projects and housing: briefing note](#).

Transitional regulations laid before Parliament, the [Housing and Planning Act 2016 \(Commencement No. 5, Transitional Provisions and Savings\) Regulations 2017](#) will bring this provision from the 2016 Act into force from 6 April 2017.

Compulsory purchase reform

This part of the Act will implement many of the changes proposed in the Government's [Technical consultation on improvements to compulsory purchase processes](#): including:

- giving *all* acquiring authorities the same powers of entry for survey purposes prior to a compulsory purchase order being made;
- to introduce a standard warrant provision in relation to the proposed new common power of entry for survey; and
- to introduce a standard notice period of 14 days for entry for survey purposes;
- developing targets and clearer timetables for the confirmation stage of the compulsory purchase order process;
- allowing the Secretary of State to delegate decisions to a planning inspector in certain circumstances; and
- making changes to the process of taking possession of the land and on the timing of the acquisition process.

This part of the Act will extend to both England and Wales. Further information about what the Government intends to do is also set out in the October 2015 [Compulsory purchase process: government response to consultation](#).

The [Housing and Planning Act 2016 \(Compulsory Purchase\) \(Corresponding Amendments\) Regulations 2017](#) came into force on 2

February 2017. It reflects the changes made by Schedule 15 of the 2016 Act to the *Compulsory Purchase (Vesting Declarations) Act 1981*. This is in respect of when information about the effect of a general vesting declaration has to be provided.

Pilot schemes for competition in processing planning applications

Sections 161-164 of the 2016 Act give the Secretary of State the power, by regulations, to introduce pilot schemes for competition in the processing (but not the determining) of applications for planning permission.⁹

The February 2016 [Implementation of planning changes: technical consultation](#) asked for views on who should be able to compete for the processing of planning applications, which applications they could compete for and on how fee setting in competition test areas should operate. The Government's response to this part of the consultation stated that the Government would "reflect on all of the views expressed by respondents and consult further as we move forward."¹⁰

Section 106 planning obligations

Section 106 planning obligations can be sought by local authorities to help mitigate adverse impacts of development to make it acceptable in planning terms. At Report Stage of the then Bill on 5 January 2016 the Government tabled new clauses to provide for a dispute resolution process to speed up section 106 negotiations.¹¹

Chapter 10 of the February 2016 [Implementation of planning changes: technical consultation](#) provided further information about how the proposed dispute resolution mechanism would work. The Government's response to this part of the consultation sets out that an announcement on this is not now expected until the autumn Budget 2017:

The independent review of CIL 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.¹²

This part of the Act also provides the Secretary of State with powers to restrict the enforcement of planning obligations in relation to affordable housing in certain situations. The Government said it would consult later

⁹ [HC Deb 5 Jan 2016 c218-219](#)

¹⁰ 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 4.26

¹¹ [HC Deb 5 January 2016 c216-7](#)

¹² 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

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on how to use this power, which would be introduced through regulations.¹³

¹³ [HC Deb 5 January 2016 c217](#)

3. Neighbourhood Planning Bill

The Neighbourhood Planning Bill 2016-17 (Bill 61), was published and had its First Reading on 7 September 2016. The text of the Bill, the associated Bill documents and tracked progress of its Parliamentary stages are available from the [Neighbourhood Planning Bill](#) pages on the Parliament website. A table setting out the territorial extent and application of each clause is given at page 16 of the Bill's [explanatory notes](#).

The Government's two "key aims" of the Bill are to:

- help identify and free up more land to build homes on to give communities as much certainty as possible about where and when development will take place; and
- speed up the delivery of new homes, in particular by reducing the time it takes to get from planning permission being granted to building work happening on site and new homes being delivered.

Provisions in the Bill

On **Neighbourhood Planning** the Bill 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 Bill was also the subject of an open consultation, [Implementation of Neighbourhood Planning provisions in the Neighbourhood Planning Bill](#).

The Bill 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 Bill 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 Bill for an acquiring authority to issue a compulsory purchase confirmation notice. The Bill 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.

For further information about the Bill see Library briefing papers:

- [Commons Library analysis of the Neighbourhood Planning Bill](#), 28 September 2016; and
- [Neighbourhood Planning Bill: Report on Committee Stage](#), 16 November 2016.

- [Neighbourhood Planning Bill: Briefing for Lords Stages](#), 5 January 2017.

Amendments made at Commons Committee stage

A number of Government new clauses were added at the Commons Committee Stage in relation to development plan documents (Local Plan) making:

- New clause 4 enables the Secretary of State to direct two or more Local Planning authorities to make a joint Local Plan;
- New clause 3 introduces a requirement for each Local Planning authority to identify the strategic priorities for the development and use of land in their areas;
- New clause 7 introduces a requirement for Local Plans to be reviewed at regular intervals;
- New clause 5 and new schedule 1 enable the Secretary of State to invite a County Council to prepare a Local Plan where a district council had failed to do so.
- New clause 6 enables data standards for local development schemes and documents to be set by Government.

All of these new clauses were agreed without being pushed to division.

Amendments made at Lords Grand Committee stage

At the Grand Committee stage in the House of Lords Government amendments were made to the Bill to:

- Require local planning authorities to notify neighbourhood planning groups automatically of any future planning applications or alterations to those applications in the relevant neighbourhood area after the neighbourhood plan has successfully passed independent examination.¹⁴
- Clarify the definition of a “post-examination” neighbourhood plan to ensure that it applies to those plans which progress through the new modification procedure set out in Clause 3.¹⁵
- Allow the Secretary of State to produce regulations which set out further matters which local planning authorities must address in their statements of community involvement.¹⁶
- Require the Secretary of State to issue guidance for local planning authorities on how their local development documents (taken as a whole) should address housing needs that result from old age or disability.¹⁷
- To dis-apply the power in the Bill, which allows the Secretary of State to make regulations about what kind of conditions may or

¹⁴ House of Lords Grand Committee, 31 January 2017 [c182](#)

¹⁵ House of Lords Grand Committee, 31 January 2017 [c182](#)

¹⁶ House of Lords Grand Committee, 2 February 2017 [c275](#)

¹⁷ House of Lords Grand Committee, 2 February 2017 [c265](#)

may not be imposed and in what circumstances, from conditions attached to Development Orders.¹⁸

- Clarify and expand on some of the provisions relating to compulsory purchase.¹⁹ For example, to remove the requirement for the temporary possession to be linked directly to a scheme for the acquisition of other land either by compulsion or agreement.²⁰

Amendments made at Lords Report stage

At report stage in the House of Lords two Opposition amendments were added to the Bill which would:

- Require that "no regulations shall be made ... that would have the effect of preventing a local planning authority from requiring a condition that would otherwise be in conformity with the NPPF". Lord Stunell said that the amendment would place a limit on the secretary of state when introducing his regulatory powers, so that "none of those powers can cut into the NPPF or reduce the capacity of local authorities to put in conditions, as long as they are in conformity with the NPPF".²¹

The Government did not support the amendment, explaining that it was not necessary because the Bill would already operate in this way in practice.²² The amendment (18) was added following a division by 113 votes to 107.²³

- Require the Secretary of State to make regulations to remove permitted development rights which relate to the change the use of, or demolition of, drinking establishments.

The Government did not support this amendment (no.35) and instead offered as an alternative to it, an "open and transparent review of the current arrangements in respect of assets of community value and the planning regime for pubs, including looking at permitted development rights." The review would start "no later than straight after the local elections, with a clear commitment to report within six months—that is, to come back in the autumn with a view to taking action on whatever the review throws up."²⁴ The amendment was pushed to division where it was added by 278 votes to 188.²⁵

Government amendments were added to the Bill at Report stage which would:

- Introduce a default period, following consultation, after which the agreement of the applicant would be deemed to have been given in respect of pre-commencement planning conditions.²⁶
- Apply the affirmative Parliamentary procedure to regulations made under subsections (1) and (6) of new Section 100ZA (of the

¹⁸ House of Lords Grand Committee, 6 February 2017 [c295](#)

¹⁹ House of Lords Grand Committee, 6 February 2017 [cc390](#)

²⁰ House of Lords Grand Committee, 6 February 2017 [c390](#)

²¹ HL Deb 23 February 2017 [c474](#)

²² HL Deb 23 February 2017 [c483](#)

²³ HL Deb 23 February 2017 [c486](#)

²⁴ HL Deb 27 February 2017 [c734](#)

²⁵ HL Deb 27 February 2017 [c737-739](#)

²⁶ HL Deb 23 February 2017 [c490](#) and 492

Town and Country Planning Act 1990). New section 100ZA will provide the Government with powers to make regulations which restrict the power of local planning authorities to impose conditions.²⁷

- Clarify and expand on some of the provisions relating to compulsory purchase. For example to clarify that temporary possession of land must be authorised by the same type of instrument “as would have been used if the land in question had been compulsorily acquired for the same purposes for which temporary possession is needed.”²⁸ Further amendments dealt with the power to override easements and other third-party rights over land taken for temporary possession.²⁹

Amendments made at Lords Third Reading

Third Reading of the Bill in the House of Lords was held on [15 March 2017](#). Government amendments were added to the Bill which would:

- enable the secretary of state, through regulations, to set out the procedure an examiner of a neighbourhood plan or neighbourhood development order must follow. This would allow a duty to be placed on examiners to provide information to neighbourhood planning groups and to hold meetings with them.³⁰
- to allow the above amendment to apply where a neighbourhood planning group seeks to update an existing neighbourhood plan in the “streamlined way proposed under clause 3 and schedule 1 to the bill”.³¹
- “correct a drafting inconsistency between Clauses 27(2) and 42(3)”, relating to the temporary possession of land.³²

Liberal Democrat Peer, Lord Taylor of Goss Moor tabled an amendment on “development of new towns by local authorities”, which was supported by the Government.³³ The aim of the amendment was to give the Secretary of State the power to appoint one or more local authorities in the designated area of the new town to oversee the delivery of the new town and the new development corporation. This would mean that the delivery of new towns could be overseen by local authorities, rather than the Secretary of State as at present.³⁴ The amendment was agreed and added to the Bill.³⁵

²⁷ HL Deb 23 February 2017 [c490](#) and 492

²⁸ HL Deb 27 February 2017 [c765](#)

²⁹ HL Deb 27 February 2017 [c765](#)

³⁰ HL Deb 15 March 2017 [c1886](#)

³¹ HL Deb 15 March 2017 [c1886](#)

³² HL Deb 15 March 2017 [c1906](#)

³³ HL Deb 15 March 2017 [c1891](#)

³⁴ HL Deb 15 March 2017 [c1893-4](#)

³⁵ HL Deb 15 March 2017 [c1900](#)

4. Forthcoming changes not in the legislation

The following section sets out the planning reform proposals which have been announced by Government, but which stem from non-legislative proposals.

4.1 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.

In 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 former 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.³⁶

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 former [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 Government said that it wanted to understand whether developer contributions to affordable housing created a barrier to delivering dedicated student accommodation. In the Government’s response it said that it would “undertake further discussions with relevant parties to further support dedicated student accommodation”.³⁷

The Government response also highlighted that it had received indications that the Government should also consider further a basis for

³⁶ HM Government, [National Infrastructure Plan 2014](#), December 2014, para 15.23

³⁷ HM Government, [Student accommodation and affordable housing contributions Government Response to consultation](#), March 2015, para 4

strengthening the legislative framework for resolving delays in negotiating Section 106 agreements.³⁸

In the HM Treasury's July 2015 Productivity Plan, [Fixing the foundations: Creating a more prosperous nation](#), the 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."³⁹ 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 is not now expected until the 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.⁴⁰

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

4.2 Community Infrastructure Levy

In November 2015 the 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.⁴¹

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

³⁸ HM Government, [Section 106 Planning obligations – speeding up negotiations Student accommodation and affordable housing contributions: Government Response to consultation](#), March 2015, p13

³⁹ HM Treasury, [Fixing the foundations: Creating a more prosperous nation](#), July 2015, para 9.17

⁴⁰ 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

⁴¹ HM Government, [Review of the Community Infrastructure Levy: Terms of Reference](#), November 2015

contributions and will respond to the independent review and make an announcement at Autumn Budget 2017.⁴²

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](#).

4.3 Local plans and housing requirements

Housing delivery test

In the November 2015 [Autumn Statement](#), the 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.⁴³

As part of the proposals in the [Housing white paper](#), the Government is consulting on making changes to the NPPF to introduce a new housing delivery test. This will 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 will ensure that further land comes forward. Where under delivery is identified, the Government proposes 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

⁴² HM Government, [Fixing our broken housing market](#), 7 February 2017, para 2.29

⁴³ 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.⁴⁴

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, the [Housing white paper](#) proposes that local authorities will 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.⁴⁵

Requirement to plan for housing and strategic priorities

In the [Housing white paper](#) the Government proposes 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 proposes 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.⁴⁶

Local plan intervention and review

On 15 September 2015 the Government announced that it had set up an "expert panel" to consider how to simplify the Local Plan making process. This panel was chaired by Chair John Rhodes, from Quod

⁴⁴ HM Government, [Fixing our broken housing market](#) 7 February 2017, p96-97

⁴⁵ HM Government, [Fixing our broken housing market](#) 7 February 2017, p90

⁴⁶ HM Government, [Fixing our broken housing market](#) 7 February 2017, p73

(Planning Consultants). The Expert Panel published its [final report](#) on 16 March 2016, which coincided with the March [2016 Budget](#).

Clauses introduced by the Government at Committee stage of the Neighbourhood Planning Bill aim to implement some of the Expert's Panel's recommendations needing primary legislation. These include:

- New clause 4 which enables the Secretary of State to direct two or more Local Planning authorities to make a joint Local Plan;
- New clause 6 which would enable the Secretary of State to set data standards for local development schemes and documents.
- New clause 3, which introduces a requirement for each Local Planning authority to identify the strategic priorities for the development and use of land in their areas; and
- New clause 7 which introduces a requirement for Local Plans to be reviewed at regular intervals.

The [Housing white paper](#) highlights how the Neighbourhood Planning Bill will allow regulations to be made to require a review of development plan documents (including local plans) at regular intervals. It also sets out the intention for these documents to be reviewed at least once every five years.⁴⁷

Incentive to put in place a Local Plan

In the Government's 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 this is to "incentivise the impact of the Bonus".⁴⁸ Specifically it was proposed that the New Homes Bonus allocations could be withheld from areas where no Local Plan has been produced.⁴⁹

The [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 2018-19.⁵⁰

⁴⁷ HM Government, [Fixing our broken housing market](#) 7 February 2017, p72

⁴⁸ HM Government, [New Homes Bonus: Sharpening the Incentive: Technical Consultation](#), 17 December 2015, p11

⁴⁹ HM Government, [New Homes Bonus: Sharpening the Incentive: Technical Consultation](#), 17 December 2015

⁵⁰ HM Government, [New Homes Bonus: Sharpening the Incentive: Government Response to the Consultation](#), December 2016

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 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.”⁵¹

The Housing white paper acknowledges that in some parts of the country the duty to cooperate has “not been successful.”⁵² It proposes, subject to consultation, to change the NPPF, so that authorities will be expected to prepare a Statement of Common Ground, setting out how they will 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 Government said that it “will consider how policy can support higher density housing around key commuter hubs. The government will also consider how national policy and guidance can ensure that unneeded commercial land can be released for housing.”⁵³

In its December 2015 [Consultation on proposed changes to national planning policy](#) the Government put forward proposals to require LPAs to “require higher density development around commuter hubs wherever feasible.” The consultation sets out that 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.⁵⁴

In the March 2016 Budget the Government said that “the Homes and Communities Agency will work in partnership with Network Rail and Local Authorities to bring forward land around stations for housing, commercial development and regeneration, and will announce proposals for specific sites shortly.”⁵⁵ 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](#).

⁵¹ HM Treasury, [Fixing the foundations: Creating a more prosperous nation](#), July 2015, para 9.11

⁵² HM Government, Housing white paper, [Fixing our broken housing market](#), 7 February 2017, para 1.9

⁵³ HM Treasury, [Fixing the foundations: Creating a more prosperous nation](#), July 2015, para 9.12

⁵⁴ HM Government, [Consultation on proposed changes to national planning policy](#) December 2015

⁵⁵ HM Government, [Budget 2016](#), 16 March 2016, para 2.293

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.⁵⁶

The consultation on the white paper seeks views on what standards would be appropriate where densities are increased, and the locations in which this could happen.⁵⁷

A standardised approach to housing requirement calculations

There is currently no specific methodology for local authorities to use when calculating future housing requirements. The [Housing white paper](#) states that the current approach to identifying housing requirements is “particularly complex and lacks transparency” and that it is a cause for delay in the planning system.⁵⁸

The white paper consequently sets 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 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.⁵⁹

4.4 Permitted development rights

Permitted development rights are rights to make certain changes to a building without the need to apply for planning permission. These derive from a general planning permission granted by Parliament, rather than from permission granted by the LPA. The permitted development rights are contained in schedule 2 of the [Town and Country Planning \(General Permitted Development\) \(England\) Order 2015](#) (No. 596). For further information about these rights in general and about how local

⁵⁶ HM Government, Proposed Changes to NPPF (Dec 2015) - Summary of Consultation Responses, February 2017, p5-6

⁵⁷ HM Government, Housing white paper, [Fixing our broken housing market](#), 7 February 2017, para A.70

⁵⁸ HM Government, [Fixing our broken housing market](#), 7 February 2017, para 1.12

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

authorities can remove them, see Library briefing paper, [Permitted Development Rights](#).

State-funded schools

In the February 2016 [Implementation of planning changes: technical consultation](#), the Government proposed to extend permitted development rights which relate to state-funded schools:

1. Extend from one to two academic years the existing temporary right to use any property within the use classes for a state-funded school;
2. Increase from 100 m² to 250 m² the threshold for extensions to existing school buildings (but not exceeding 25% of the gross floorspace of the original building); and,
3. Allow temporary buildings to be erected for up to three years on cleared sites where, had a building not been demolished, the existing permitted development right for permanent change of use of a building to a state funded school would have applied.

The [Government's response](#) to this part of the consultation was published in February 2017. The Government highlighted support for this proposal and confirmed that it would take the measure forward.⁶⁰

4.5 Upward extensions

London

In the HM Treasury's July 2015 Productivity Plan, [Fixing the foundations: Creating a more prosperous nation](#), the 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 do not object. In cases where objections are received, the application would be considered in the normal way, focussed on the impact on the amenity to neighbours.⁶¹

On 18 February 2016 the Government published a consultation on [Upward extensions in London](#). In it the Government 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 has indicated 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."⁶²

⁶⁰ 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](#), February 2017, para 7.4

⁶¹ HM Treasury, [Fixing the foundations: Creating a more prosperous nation](#), July 2015, paras 9.20 and 9.21

⁶² HM Government, [Budget 2016](#), 16 March 2016, para 2.289

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.⁶³

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.⁶⁴

4.6 Rural areas

In the Government's August 2015 rural productivity plan, [Towards a one nation economy: A 10-point plan for boosting productivity in rural areas](#) the Government also announced that it would review 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 published a [Rural planning review: call for evidence](#) which asked for views on these areas.⁶⁵

The Government's response to this part of the consultation was published in February 2017.⁶⁶ 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. 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

⁶³ 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

⁶⁴ HM Government, [Fixing our broken housing market](#), 7 February 2017

⁶⁵ HM Government, [Rural planning review: call for evidence](#), 11 February 2016

⁶⁶ 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

increase the existing threshold from 450sqm to 465sqm to bring it into line with the current permitted development right threshold for agricultural development.⁶⁷

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 sites⁶⁸:

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.⁶⁹

4.7 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 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 as brownfield sites elsewhere, providing it delivers Starter Homes.⁷⁰

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.⁷¹

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

⁶⁷ 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

⁶⁸ 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."

⁶⁹ HM Government, [Fixing our broken housing market](#), 7 February 2017, p82

⁷⁰ HM Government, [Spending review and autumn statement 2015](#), 27 November 2015, section 12

⁷¹ HM Government, [Consultation on proposed changes to national planning policy](#), December 2015, p19-20

brownfield land, providing this contributed to the delivery of starter homes, and subject to local consultation.⁷²

The [Government's response](#) to the consultation was published in February 2017.⁷³ Alongside it, the Housing white paper confirmed the 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.⁷⁴

4.8 Affordable housing: change of definition

In its December 2015 [Consultation on proposed changes to national planning policy](#) the 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

⁷² HM Government, [Consultation on proposed changes to national planning policy](#), December 2015, p20

⁷³ HM Government, [Proposed Changes to NPPF \(Dec 2015\) - Summary of Consultation Responses](#), February 2017

⁷⁴ HM Government, [Fixing our broken housing market](#), 7 February 2017

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.⁷⁵

The [Government's response](#) to the consultation was published in February 2017.⁷⁶ In it the Government proposes to extend the definition of "affordable housing" to include starter homes and other products. The Annex to the Housing white paper seeks views on an updated definition of affordable housing, which includes a revised definition of starter homes in relation to an income cap. Alongside that, the Government has decided to restrict the availability of starter homes to first time buyers with a mortgage. The proposed revised definition of affordable housing is set out in box 4 on page 100 of the Housing white paper.⁷⁷

4.9 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 seeks views on planning measures to support an increase in Build to Rent schemes across England. This includes changing the NPPF to support and to increase the number of new Build to Rent homes. The consultation closes on 1 May 2017.

4.10 Presumption in favour of brownfield land

In its December 2015 [Consultation on proposed changes to national planning policy](#) the 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.

⁷⁵ HM Government [Consultation on proposed changes to national planning policy](#) December 2015

⁷⁶ HM Government, [Proposed Changes to NPPF \(Dec 2015\) - Summary of Consultation Responses](#), February 2017

⁷⁷ HM Government, [Fixing our broken housing market](#), 7 February 2017, p99-100

- 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.”⁷⁸

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.⁷⁹

The [Government’s response](#) to the December 2015 consultation was published in February 2017.⁸⁰ Further to this, the Housing white paper sets out how planning policy will be changed to introduce a presumption that brownfield land within settlements is 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.⁸¹

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.⁸²

⁷⁸ House of Lords Select Committee on National Policy for the Built Environment February 2016, [Building Better Places](#) February 2016

⁷⁹ [Government Response to the Report of the House of Lords Select Committee on the Built Environment](#), November 2016, CM 9347

⁸⁰ HM Government, [Proposed Changes to NPPF \(Dec 2015\) - Summary of Consultation Responses](#), February 2017

⁸¹ HM Government, [Fixing our broken housing market](#), 7 February 2017, para A.42

⁸² HM Government, [Proposed Changes to NPPF \(Dec 2015\) - Summary of Consultation Responses](#), February 2017, p9

4.11 Cutting red tape review

In December 2015 the 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).⁸³

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.”⁸⁴ 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 states that the Government will “take a more coordinated approach across government to make sure the right infrastructure is provided in the right places at the right time to unlock housing delivery”.⁸⁵

Protected species

In relation to environmental requirements, the white paper proposes 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.⁸⁶

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 licensing](#), 7 February 2017. The press release sets out how this will be involve a 3 year programme of surveying area where newts are 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 contains 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.

⁸³ HM Government, [Cutting Red Tape review will give construction industry the foundations to get Britain building](#), 2 December 2015

⁸⁴ HM Government, [Cutting red tape review of house building](#), February 2017, p7

⁸⁵ HM Government, [Fixing our broken housing market](#), 7 February 2017

⁸⁶ HM Government, [Fixing our broken housing market](#), 7 February 2017, p40

Utility connection to new homes

Finally, on rules that affect utilities, the Housing white paper states that the Government will review what more can be done to speed up utilities connections to new homes.⁸⁷ It also seeks views on requiring local authorities to have planning policies setting out how high quality digital infrastructure will be delivered in their area.⁸⁸

4.12 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.”⁸⁹

The Government’s February 2016 [Implementation of planning changes: technical consultation](#) proposed a system whereby planning fees could be increased for Local Planning authorities which were “performing well”, linked to both inflation and performance.⁹⁰

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.⁹¹

Further to this, the Housing white paper also set out the plan to increase planning fees and also set out a new proposal to allow a further increase for authorities that are 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

⁸⁷ HM Government, [Fixing our broken housing market](#), 7 February 2017

⁸⁸ HM Government, [Fixing our broken housing market](#), 7 February 2017, Q19

⁸⁹ HC Deb 8 Feb 2016 [c1335](#)

⁹⁰ HM Government, [Implementation of planning changes: technical consultation](#), February 2016, p7-8

⁹¹ 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

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.⁹²

4.13 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.”⁹³ 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.⁹⁴

At the same time as the Budget the 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 ‘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 will legislate to allow new town development corporations to be set up as delivery vehicles and that it will 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

⁹² HM Government, [Fixing our broken housing market](#), 7 February 2017

⁹³ HM Government, [2016 Budget](#), 16 March 2016, para 1.124

⁹⁴ HM Government, [2016 Budget](#), 16 March 2016, para 2.285

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.⁹⁵

4.14 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 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 Government to give local planning authorities more effective tools to deal with circumstances where planning permission has been granted but no substantive progress has been made. To this end it proposes, subject to consultation on the proposals, 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.⁹⁶

⁹⁵ HM Government, [Fixing our broken housing market](#), 7 February 2017

⁹⁶ HM Government, [Fixing our broken housing market](#), 7 February 2017, p96

4.15 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.”⁹⁷

4.16 Fees for making a planning appeal

The [Housing white paper](#) set out the Government’s concerns that unnecessary planning appeals can be a source of delay in the planning system and waste of taxpayer’s money. In view of this the white paper proposes to consult on introducing a fee for 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 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.⁹⁸

The Housing white paper consultation seeks 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.⁹⁹

4.17 Green belt

In the [Housing white paper](#) the Government said that “Green Belt is highly valued by communities, particularly those on the edge of urban areas.”¹⁰⁰ 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 proposes 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:

⁹⁷ HM Government, March [2016 Budget](#), para 2.292

⁹⁸ HM Government, [Fixing our broken housing market](#), 7 February 2017, p38

⁹⁹ HM Government, [Fixing our broken housing market](#), 7 February 2017, p92

¹⁰⁰ HM Government, [Fixing our broken housing market](#), 7 February 2017, para A.59

- 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.¹⁰¹

The white paper also proposes 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](#).

4.18 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 on the white paper, this would include: providing a requirement for local 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.¹⁰²

4.19 Developer’s track record

The [Housing white paper](#) seeks 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.¹⁰³

4.20 Sustainable development and the environment

Climate change

In relation to climate change the [Housing white paper](#) asks 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 proposes to make clear that local planning policies should support measures for the future resilience of communities and infrastructure to climate change.¹⁰⁴

¹⁰¹ HM Government, [Fixing our broken housing market](#), 7 February 2017, p84

¹⁰² HM Government, [Fixing our broken housing market](#), 7 February 2017, p86

¹⁰³ HM Government, [Fixing our broken housing market](#), 7 February 2017, p95

¹⁰⁴ HM Government, [Fixing our broken housing market](#), 7 February 2017, p102

Flood risk

The white paper also seeks views on amending planning policy in relation to flood risk. The aim is 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.”¹⁰⁵

Noise

In relation to noise, the white paper seeks 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.¹⁰⁶

4.21 Basement development

On 4 November 2016 the 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 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.

4.22 Broadband infrastructure

In the [background briefing paper to the Queen’s Speech 2016](#) provision for a Digital Economy Bill 2016-17 was set out, which included a proposal for “new and simpler planning rules for building broadband infrastructure.”

Clause 7 of the [Digital Economy Bill \[Bill 45 2016-17, as introduced\]](#) will make permanent some temporary changes that are due to expire in April 2018 which related to when the Secretary of State was deemed to have complied with environmental duties under other legislation. For further information see section 4.1 of the Library briefing paper, [Commons Library analysis of the Digital Economy Bill](#), 9 September 2016.

4.23 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

¹⁰⁵ HM Government, [Fixing our broken housing market](#), 7 February 2017, p103

¹⁰⁶ HM Government, [Fixing our broken housing market](#), 7 February 2017, p103

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.

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.¹⁰⁷

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.¹⁰⁸

The 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 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’s response 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 2018.¹⁰⁹

¹⁰⁷ “How special measures councils have responded to the loss of planning powers” [Planning](#) 9 October 2015

¹⁰⁸ HM Government, [Implementation of planning changes: technical consultation](#) 18 February 2016, p46

¹⁰⁹ HM Government, [Improving planning performance: Criteria for designation](#) (revised 2016), November 2016

4.24 Environmental Impact Assessment amendment

In December 2016 the Government published the [Environmental Impact Assessment: Technical consultation \(regulations on planning and major infrastructure\)](#).

This consultation invites comments on proposals for implementing European Directive 2014/52/EU amending Directive 2011/92/EU '*on the assessment of the effects of certain public and private projects on the environment*' (known as the "Environmental Impact Assessment" or "EIA" Directive). The amending Directive entered into force on 15 May 2014 (as Directive 2014/52/EU – the "2014 Directive"). Member States have to transpose the amendments to the Directive into domestic legislation by 16 May 2017.

According to the European Commission the aim of the amended Directive is to simplify the rules for assessing the potential effects of projects on the environment and lighten unnecessary administrative burdens. It also seeks to improve the level of environmental protection, with a view to "making business decisions on public and private investments more sound, more predictable and sustainable in the longer term."¹¹⁰

At present most of the development in England that falls within the scope of the Directive is permitted through the planning system, and is currently subject to the Town and Country Planning (Environmental Impact Assessment) Regulations 2011. The Consultation seeks views on how the changes made by the amending Directive will be implemented in the UK. A government response to the consultation has not yet been issued.

4.25 Draft airports national policy statement

On 2 February 2017 the Government published its [draft Airports National Policy Statement](#). 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 closes 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.

¹¹⁰ European Commission website, [Review of the Environmental Impact Assessment \(EIA\) Directive](#) [downloaded on 22 February 2017]

The airports national policy statement 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, 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, 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 2017-18.¹¹¹

¹¹¹ HM Government, [Airport capacity and airspace policy](#), 2 February 2017

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