

Shelter briefing: Draft National Planning Policy Framework

In March 2018 the Government published a new draft National Planning Policy Framework (NPPF) for consultation. This document sits at the heart of planning policy across England, and the update offers an opportunity to ensure the planning system starts delivering more of the genuinely affordable homes the country desperately needs – something the current system all too often fails to achieve.

The public statements accompanying the new draft NPPF and National Planning Practice Guidance (NPPG) show a clear intention on the part of government to close the viability loophole and deliver more affordable homes. However, the measures currently proposed will not do this, and risk making the problem worse.

During the consultation period we are calling for changes to the draft NPPF and NPPG text to ensure that the reality of the policy matches the government's intentions. In particular, there are three areas that Shelter believes need to be looked at again:

- The proposed approach to assessing viability at a 'plan-level' which could increase the use of viability assessments and prevent local authorities setting clear, area wide policy by relying on a 'bottom-up' system;
- The proposed approach to assessing land values, which will not address the problem of developers being able to overpay for land, making it more difficult to get affordable homes delivered on new build housing developments;
- Changes to the definition of affordable housing contained within the NPPF could dilute it through a removal of the reference to social rent and other changes.

Summary

In England we aren't building enough homes, and particularly enough affordable homes. Last year the government increased its annual housebuilding target to 300,000 per year, however in 2016/17 in England, just 183,570 new homes were built¹, of which just 41,530 were affordable.²

In an attempt to fix this problem, the government is in the process of updating its planning guidance. If done well this could lead to the closing of the viability loophole and an increase in delivery of the genuinely affordable homes that the country so desperately needs.

Unfortunately, the current proposals in the updated NPPF won't do this. In fact, the proposals as they stand could lead to fewer affordable homes being built, and a lower proportion of the homes built being affordable to those on the very lowest incomes.

This can change though, and the government can deliver on what it is trying to achieve in the final drafts of the NPPF and NPPG, just as it has proposed positive changes to introduce transparency into the previously secretive viability system already.

Shelter's analysis has identified three key areas where improvement is needed and is possible. Addressing these issues is vital if the NPPF is truly going to be a step forwards for affordable housing policy.

1. The proposed approach to testing viability at the 'plan-level'

Shelter has called for a system where viability of development is tested when at a plan level – not on individual sites as and when the developer decides commitments like affordable housing need to be reduced to ensure their financial return.³ If this 'plan-level' approach to viability was adopted, then it would enable local authorities to severely restrict the times where a developer would be able to reduce commitments on individual sites.

¹ Statistic given is for new build completions. Total net additions to the overall housing stock numbered 217,350.

² DCLG live tables on affordable housing.

³ Shelter; [Slipping through the loophole](#), 2017

This approach also enables local authorities to set a clear local affordable housing policy using a threshold system like that enacted by the Mayor of London. Under this system the local plan as a whole is established as viable with a set affordable housing level that is negotiable only in certain exceptional circumstances, which should be set out in guidance. This then sends a market signal ensuring that the affordable housing level is factored in to developer's calculations around what to pay for land and the cost of development – something that generally doesn't happen under the current system.

The government has clearly listened to these concerns and is proposing a move to plan-level viability tests. **However, the proposed bottom-up methodology, as expressed in paragraphs 34 and 58 of the NPPF, undermines this good intention by effectively requiring local authorities to test viability on all sites as part of the plan making process in a 'bottom-up' process.**

This is flawed for two key reasons:

1. It is clearly onerous and time consuming, particularly at a time when local authority planning departments are already stretched.
2. By forcing local authorities to ensure all sites or types of sites are individually viable it will prevent local authorities being able to set an area wide affordable housing threshold where the overall plan is viable and there is a recognition that individual sites with particular challenges could deliver less.

A threshold system like this sends a signal to the market that any negotiation around affordable housing starts at that point and the expectation is that it is delivered in the majority of cases. This market signal is also powerful in ensuring that developers pay a price for land that is appropriate.

In London, Sadiq Khan implemented a threshold approach to affordable housing and viability that covered the entire City in 2017 and this has proved highly successful in increasing affordable housing permissions, almost trebling the levels of affordable housing permitted. Anecdotal evidence also tells us that land prices have experienced downward pressure as a result of this approach.

A threshold approach can also be much more nuanced than 'one size fits all'. For example, in Eastbourne the council sensibly distinguishes between low and high value areas, with affordable housing requirements set higher in the high value areas. This is an approach also taken by local authorities such as Leeds and Bristol and one that Shelter would support being rolled out nationwide as appropriate.

Overall, the current proposals on plan-level viability risk local authorities being backed into setting low affordable housing requirements across their area to ensure all sites can meet it and risk a confused and weak system that developers will continue to exploit. Instead, viability should be established at plan-level but in a 'top-down' way that looks at the viability of the plan as a whole and that sends a strong market signal and pushes down on land values to ensure the delivery of community benefits.

2. Limitations of the proposed approach to land valuation

Ensuring that land is valued in the best possible way to establish viability is a vital role of the NPPF and the NPPG. In the updated NPPG the government rightly address this issue and it is positive to see an explicit reference to the fact that the price paid for land should not be considered the value of the land – this reflects the fact that all too often in recent times developers overpay for land and then used that fact to reduce their commitments (e.g. affordable housing) to local communities.

Page 8 of the NPPG states that when considering the value of land "*the existing use value (EUV) of the land, plus a premium for the landowner*" should be used. As noted in the guidance this approach is generally referred to as EUV+.

Incorporating EUV into how land is valued for viability purposes is a positive step, however, it is undermined by the proposed method for calculating the landowner premium that is then added on. The NPPG currently proposes that the premium is calculated using the price paid for comparable sites.⁴

Shelter has always been clear that landowners are entitled to a profit when selling land into development, therefore, it is right that the price they can expect to be paid includes a premium on top of the EUV. How this premium is calculated though is important: too high a premium for the landowner risks reducing the amount of affordable housing that developers will be willing to deliver by continuing the current system of overpaying for land and making winners out of landowners and losers out of local communities.

⁴ Draft National Planning Policy Guidance, page 9

The use of price paid on comparable sites as an approach is flawed because it relies upon the current market to provide the correct level of premium, but as we know the current market is broken. This is particularly true when it comes to land prices, exemplified by the fact that since 1995 the value of land has risen by 544%,⁵ and has doubled since just 2010.

To maximise the delivery of affordable homes, and to ensure that the new rules governing viability are a step in the right direction, we cannot allow high land values that prevent this back in via the back door. As such, Shelter would like to see the level of landowner premium defined fully in the NPPG rather than left open to abuse.

At the very least the language used in the NPPG that suggests only “*policy compliant*” transactions can be used should be strengthened, making it explicit that this means fully policy compliant in all ways – including the provision of affordable housing and other community benefits. However, this is only workable if councils are able to set affordable housing policies which can function as a market signal, as covered in point 1.

Ideally the landowner premium should also reflect regional differences in the housing market and changes in planning use. By this we mean recognising that the price of development land, and the difference in value between different uses (i.e. agricultural and residential or commercial and residential) is far greater in some regions than others. This could mean a greater premium in low value areas to help incentivise landowners to bring forward land for development, but a lower premium in high value areas like the south east where the returns available mean less incentive is required.

3. Dangers of diluting the definition of affordable housing

It is extremely concerning that the draft NPPF omits the direct reference to social rent that was present in the 2012 version of the document.⁶

Social rented housing is a vital part of our housing mix, and is the only housing tenure that will directly support the government’s intention to tackle homelessness.

The removal of social rent from the NPPF could be read as a withdrawal of support for these kinds of homes in the planning system. Technically support for social rent does remain through the reference to homes where “*the rent is set in accordance with the Government’s rent policy*” but the failure to make this reference clear and unambiguous dilutes the definition and should be reversed.

On a practical level it is also vital to collect and publish detailed affordable housing statistics as the Ministry for Housing, Communities and Local Government currently does. Being able to distinguish between different types of affordable housing being provided is an important part of this and removing the social rent reference also risks this.

In 2012, the NPPF also defined affordable housing as something “*provided to eligible households whose needs are not met by the market*”. However, in Annex 2 of the updated NPPF the reference to eligibility to eligibility is removed and affordable housing is simply defined as being “*for those whose needs are not met by the market*”.

This omission of eligibility runs a very real risk of making it harder to deliver the least profitable types of affordable housing, such as social rent. This would be true even in areas where the Strategic Housing Market Assessment (SHMA) has identified social rent as a requirement because the link to eligibility is broken. Instead what could happen is that developers use this weakened definition, and the weakened viability process, to deliver large numbers of the more profitable affordable housing tenures such as shared ownership.

Housing being built, both affordable and for market sale, has to link to local need. Just as a developer wouldn’t build housing that nobody in the local area would buy they should not be building affordable products that don’t reflect what is needed. The proportion of each type of affordable tenure should be set out by the local authority based on the SHMA and then adhered to by the developer.

If you have any questions or would like any more information, then please contact Robin White on 07891974383 or at robin.white@shelter.org.uk

⁵ ONS; [UK National Balance Sheet 2017](#)

⁶ See draft NPPF, Annex 2, Definition of Affordable Housing

