

# **Submission from South East Councils**

## **Ministry of Housing, Communities and Local Government Consultation:**

### ***“Proposed reforms to the National Planning Policy Framework and other changes to the planning system.”***

*“The Government is rightly taking its first steps towards dealing with the housing crisis – and acting on its ambition to deliver 1.5 million homes over the next five years.*

***As one of the most expensive regions to rent or buy a home, communities across the South East of England urgently need meaningful solutions.***

*It is clear from the South East 1,000 Regional Monitor 2024 that the majority of residents, businesses and councillors support the building of new homes in their area.*

*Housing targets would appear to be unviable for some areas and it must be said that there are concerns amongst some of our members. The NPPF must properly account for exceptional circumstances.*

*Planning should be an optimistic and democratic tool for positive growth, yet too often development has not lived up to local expectations and has ended up contributing to net biodiversity loss.*

*The NPPF should strengthen and enhance the protections of our most intrinsically valuable protected areas, whilst promoting positive growth with net environmental gains of green and blue infrastructure in the heart of our communities for the benefit of all.*

***Local authorities would benefit from being equipped with greater tools to incentivise housebuilders to deliver the types of developments our communities want and need.***

*Nevertheless, we are at the starting line, not the finish line – and we are pleased to contribute, with this submission, to the joint effort of local and central government to deliver for our communities.”*

**Cllr Nick Adams-King,  
Chair, South East Councils**

**27<sup>th</sup> September 2024**

## 1.0 Introduction

- 1.1 South East Councils (SEC) is a cross-party, membership association that works to ensure that the South East is a great place to live, work and do business. SEC promotes the views and interests of all tiers of local government across the South East and is recognised as an affiliate of the Local Government Association (LGA). With the majority of the seventy local authorities across the region as members, we seek to provide a unified democratic voice on South East interests.
- 1.2 Our [“Securing a Greater South East” \(SAGSE\) agenda](#) outlines that as Government consider priorities for the future, the South East will require: Devolving financial competencies to allow the South East to decide on how invest in its future – rather than lobbying Whitehall to get our own taxpayers’ money back; Endowing local government with powers to ensure adequate infrastructure and public services provision – to make the South East region attractive as a place to live, work and do business and; Creating a new regional delivery model to harness innovation, experience and funding – to empower locally elected representatives to deliver for the communities they serve.
- 1.3 Each year, SEC publishes the *South East 1,000 Regional Monitor*. Produced by SEC partnered with polling agency Savanta ComRes to produce a unique monitor of public, business and civic cohorts. It is the largest regular survey of councillor, business, and public opinion in the region. The [latest edition](#) was published in February 2024.
- 1.4 SEC serves as the Secretariat for the All-Party Parliamentary Group (APPG) for the South East, chaired by Tan Dhesi MP.
- 1.5 SEC is grateful for the opportunity to respond to this consultation held by the Ministry of Housing, Communities and Local Government (MHCLG) on Proposed reforms to the National Planning Policy Framework and other changes to the planning system – and understands that it is seeking views on the Government’s proposed approach to revising the NPPF and on a series of wider national planning policy reforms.

## 2.0 Response

### 2.1 Key Points

- 2.1.1 **Our members are aware of the Government’s ambition to deliver 1.5 million homes over the next five years.** There is a housing and affordability crisis with the South East one of the most expensive places to live. Many of the principles underlying the proposed changes are supported, such as the need for more affordable housing, sustainable economic growth and the need for environmental protections.
- 2.1.2 **It is critical that the NPPF equips local authorities with the tools to construct a vision for how their areas can grow in a way that protects the quality of life of their communities** and the wider environment – in order to support local authorities to plan for increased housing targets and gain local acceptance for such plans.
- 2.1.3 **The housing targets set for some of our members are unrealistic and do not sufficiently take into account exceptional circumstances.** In some areas, hard constraints such as high proportions of national parks, Areas of Natural Beauty (AONB), Special Areas of Conservation, Special Protection Areas, flood risk areas, and high proportions of Green Belt land make meeting the target unachievable. Indeed, **the proposed method appears to “make room” for knowing that some councils will not be able to meet their housing targets.** This double counting is unnecessary and puts those areas with unviable targets under undue strain. The method should simply set out the need for each local authority area, resulting in more realistic numbers.

- 2.1.4 **Specific guidance could be published by Government to address areas in exceptional circumstances.** In these cases, provisions could be considered to meet need over even larger strategic areas than functional economic areas, the spatial unit suggested in proposals to legislate to achieve universal coverage of Strategic Development Strategies (SDSs). Some parts of the South East are fundamentally different to the national picture, with for example, numerous local authorities overlapping with multiple national parks. Provisions for neighbouring authorities to help meet need as proposed may be unsuitable when exceptional circumstances exist over areas even larger than functional economic areas.
- 2.1.5 **Progress is needed on effective cross-boundary collaboration and the move to strategic planning.** At the highest level it could be said that there is scope for improvement on how the Government chooses to respond to a perceived gap in strategic planning. The Duty to Cooperate has largely been seen as ineffective as a standalone tool. The Government's push for devolution is of course expected to play a role in more substantial strategic cooperation on housing delivery. However, there is no guarantee of full coverage there and areas without a deal cannot be left behind. **Centralised housing targets are not a solution and should be compared and contrasted with a return to a pre-2011 style regional model aiming to strengthen local government structures, rather than dictate top-down.**
- 2.1.6 **Members have questioned why London, despite being the least affordable part of the country, had its housing target reduced.** London's reduced target is expected to put greater pressure on the South East, particularly those local authorities neighbouring the Capital. **Government should address what many see as a double standard by making clear why London's housing target has been reduced, while the South East has had its target raised.**
- 2.1.7 **The NPPF could be strengthened to enhance protections of the most important areas of countryside and promote biodiversity, blue and green infrastructure.** Strengthening the presumption of sustainable development would allow our members to protect their most valuable countryside spaces to protect the identity of towns and rural communities. In the past incremental development has not had protections of biodiversity built in resulting in net loss. It is important that the places are enabled to plan positively for growth and instead enhance green and blue infrastructure with development.
- 2.1.8 **The definition of proposed "Grey Belt" must be further clarified.** Multiple members emphasised that there is a lack of clarity regarding the proposed definition of Grey Belt. Any vagueness could add strain to the planning system as developers are expected to maximise efforts to develop on Green Belt land rather than on more costly brownfield. There are also major concerns that landowners could deliberately degrade their Green Belt land in order to meet the Grey Belt definition to profit from development. **An improved definition would add weight to a "Brownfield First" approach. It would clearly reduce the risk of undue strain on planning departments and eliminate any incentives for intentional land degradation.**
- 2.1.9 **Developers need to be incentivised to build out on agreed sites.** Local authorities could be penalised if developers fail to deliver on committed housebuilding sites, SEC was told. The proposed requirement for continual demonstration of five years of supply for local authorities with agreed local plans could create a perverse incentive for developers to game the system. By overstating delivery rates and timescales at examination stage, developers could expect that within a short period after adoption, delivery shortfalls would lead to the application of the presumption in favour of development. This could weaken local planning authority abilities to apply local plan policies and contribute to speculative development.

- 2.1.10 **Local authorities would benefit from greater tools to stop land banking.** There is a lack of “carrot and stick” to incentivise buildout of what is frequently promised. Practical solutions for land banking could include granting the ability to apply Council Tax to permitted deliverable but incomplete homes, or to withdraw planning permission where there is undue delay. If previous delivery records could be considered a valid consideration in decision-making, this would act as an incentive for developers to build out as committed.
- 2.1.11 **There is scope for further steps to be taken to ensure the delivery of enough affordable homes.** There is a difference of opinion amongst our members in that some believe that too much weighting is applied to affordability in the proposed method, whilst others recognise that the affordability ratio needs to align with the aim of increasing the supply of homes. One member told SEC they believe that the viability calculations developers use to determine the amount of affordable housing they are able to deliver is based more on an “arbitrary construct” rather than the “true financial reality”. **These viability calculations could therefore be investigated, and new guidance could help to ensure that developers do not underdeliver on affordable housing where needed. There is also scope for local planning authorities to be granted greater powers to demand higher proportions of affordable housing where desired.**
- 2.1.12 **Greater central government funding could support the delivery of more housing for social rent, or affordable housing.** The NPPF expects Local Plans to look at least fifteen years ahead from adoption – hence emerging plans are looking as far as twenty years into the future. In order for the Government to best attempt to reach its five-year target of building 1.5 million homes, it makes sense for central Government funding to focus where need is highest by targeting the shortage of homes for social rent and lack of affordable homes. This could be looked at via grant funding to registered providers by area or region, or returning to a principle of allocating grant funding to each authority to spend in their area.

## 2.2 Housing targets

- 2.2.1 Our members generally strongly support the provision of more (especially) affordable housing. **However, the targets set for some of our members are unrealistic and do not sufficiently take into account exceptional circumstances.**
- 2.2.2 One member has said: “The proposed standard method is fundamentally detached from the realities of local constraints” in their area. In some areas, hard constraints such as high proportions of national parks, Areas of Natural Beauty (AONB), Special Areas of Conservation, Special Protection Areas, flood risk areas, and high proportions of Green Belt land make meeting the target unachievable.
- 2.2.3 A member emphasised that over half of their area is covered by national park land – yet they are expected to increase housing by over 80%. They have expressed grave concern at being asked to deliver such enormous increases in housebuilding despite clear hard constraints to doing so. Another member told us of their **ambitious local plan to almost triple the number of residential units being produced per year** to meet the existing standard method for assessing housing need. **Yet the newly proposed housing calculation would require (over) doubling even this, despite the total land being over 90% Green Belt.**
- 2.2.4 **Government should act on the reasonable fears from some local authorities who know that they are being put in an impossible position.** Unviable housing targets could potentially lead to high levels of unsustainable and unplanned development in their areas with the capacity of planning departments under immense strain to prevent

excessive environmental and character harms and struggle to fill amenity gaps where there isn't a realistic capacity to do so.

- 2.2.5 **The proposed method appears to “make room” for knowing that some councils will not be able to meet their housing targets.** This double counting is unnecessary and puts those areas with unviable targets under undue strain. **The method should simply set out the need for each local authority area, resulting in more realistic numbers, and account for where one authority cannot meet its needs in the approach to neighbouring local authority unmet needs.**
- 2.2.6 [Chapter 3 – Q1] One member told us that the sources of data used to create housing targets should require some form of local contextualisation, adding that that the proposed figures seem to be larger than the last government and should instead opt for a more credible and deliverable figure.
- 2.2.7 **Some members have emphasised the importance of exempting local authorities with local plans from being required to continually demonstrate 5 years of specific, deliverable sites for decision making purposes.** Doing so, SEC was told, would be counter-intuitive to a planning system led by local plans and increase speculative development and planning by appeal. Local authorities already have to demonstrate sufficient land supply for homes in their local plan. Requiring local planning authorities with local plans to demonstrate a five-year housing supply risks undermining plan-led placemaking and public trust in the planning process.
- 2.2.8 **Questions also exist around why London, despite being the least affordable part of the country, had its housing target reduced.** Members reported concerns that the decision to lower London's housing targets may apply greater pressure on the South East. Some see the lowering of London's target as a double standard. It might be argued that it is difficult to meet higher targets in London given the density of the city. However, the areas neighbouring the Capital are also densely populated, with the addition of significant proportions of green belt land. Steps could be taken to explain this perceived double standard.

## 2.3 Proposed “Grey Belt” land

- 2.3.1 In regard to introduction of “Grey Belt” development through the NPPF, multiple members emphasised that there is **a lack of clarity regarding the proposed definition of Grey Belt and the potential challenges** of how this will be applied in practice. SEC has heard concerns that any vagueness in the definition could further strain the already stretched planning departments as developers are expected to maximise efforts to develop on Grey Belt rather than on more costly brownfield land.
- 2.3.2 Some members disagreed with the proposed definition telling us that it would result in harm to the Green Belt and increase development often in poorly accessible locations – as well as being contrary to the purpose of Green Belt to “preserve the setting and special character of historic towns”.
- 2.3.3 Other members have suggested that whilst they acknowledge the need for housebuilding to reduce the housing shortage, even if on Grey Belt land, that **further steps should be taken to add weight to a “Brownfield first” approach.**
- 2.3.4 One member suggested that there should be a separate and clear definition of what land within the Green Belt could reasonably be classified as “grey belt”, other than previously developed land, to avoid difficulties as a result of the proposed vague definition being “open to interpretation”.

- 2.3.5 There are also major concerns that landowners could deliberately degrade their Green Belt land in order to meet the Grey Belt definition to profit from development. **Government should take concrete steps to ensure that an improved definition of Grey Belt would eliminate any incentives for deliberate land degradation.**

## 2.4 Avoiding a “free-for-fall”

- 2.4.1 [Chapter 3 – Q6] One member told us that in their experience **developers have been known to exploit the presumption in favour of sustainable development to promote poor development.** This is in respect of Paragraph 16, Chapter 3, which is supposed to address situations where there is an inadequate land supply. For example, by claiming that sites promoted will be delivered quickly and help short term supply issues but then once permission is gained, not delivering on their commitments.
- 2.4.2 We have repeatedly heard from our members that developers are breaking their own commitments and failing to build out homes on agreed sites. This adds to frustration where blame is pinned on local authorities for lower than desired housing delivery. Additional powers for local planning authorities are desired to support housing delivery in a timely manner.
- 2.4.3 [Chapter 7 – Q7] **Requiring local planning authorities with local plans to demonstrate a five-year housing supply could allow developers to undermine plan-led placemaking.** A member said that without safeguards, imposing expectations to continually demonstrate a five year housing supply on local planning authorities “**risks creating an incentive for developers to game the system** by overstating delivery rates and timescales at examination stage, on the hope or expectation that within a short period after adoption delivery shortfalls would lead to application of the presumption in favour of sustainable development, weakening the local planning authority’s ability to apply their recently adopted plan policies.”
- 2.4.4 Another member added that **exempting local authorities with up-to-date local plans from having to continually demonstrate a five-year housing supply also serves as an incentive to keep local plans up to date,** which is in the interest of all parties.
- 2.4.5 [Chapter 7 – Q7] On the issue of local planning authorities being required to continually demonstrate five years of specific, deliverable sites for decision making purposes, one member said that **local authorities “should not be penalised” where developers fail to deliver on committed housebuilding sites. If previous delivery record could be considered a valid consideration in decision-making, then this would act as an incentive for developers to build out as committed,** rather than rowing back later and failing to deliver on local need.
- 2.4.6 Government must listen to local authorities – **improve funding local planning and hold developers to account for delivering more and better housing.** Planning departments are expected to come under even more immense pressure as a result of the newly proposed housing targets for all the reasons listed above requiring even more effort to hold developers to account with limited tools and resources, plus the expected uplift in speculative development.

## 2.5 The need for affordable housing

- 2.5.1 [Chapter 3 – Q34] One member told us that they have **serious concerns with the implied proposal for higher proportions (at least 50%) of affordable housing to be required in Green Belt developments because of “viability opt-out”** – i.e. where developers agree in planning stages but ultimately fail to deliver on their commitments.
- 2.5.2 **National guidance on assessing viability of affordable housing should be updated to ensure private developers do not deliver developments with an insufficient proportion of affordable housing when needed locally.**
- 2.5.3 **Members have expressed a need for greater flexibility and control over determining the housing mix appropriate for their communities.** [Chapter 6 – Q48] Members have told us that they agree with removing the requirement to deliver 10% of housing on major sites as affordable home ownership – provided that local authorities are given the ability to adjust the percentage appropriately to reflect local need. **Members have often emphasised a desire for greater powers to require developers to build a higher proportion of affordable homes.** The common theme is empowering councils to decide what’s best for their area.
- 2.5.4 [Chapter 4 – Q18] **One member suggested a solution may be to use top-down housing targets only for social housing, not all housing.** This may go some way in addressing the issues of top-down housing targets being a blunt instrument that allows sprawl of inappropriate housing by speculative development that fails to also address local need in reality once delivered.
- 2.5.5 [Chapter 6 – Q52] – A member explained how in practice, **most social rented and affordable rented housing is constrained by viability arguments from developers.** They suggested that one way of overcoming the social rent shortage is looking at grant funding to registered providers by area or region, or returning to the principle of allocating grant funding to each authority to spend in their area. Alternatively, these viability arguments could be interrogated.
- 2.5.6 [Chapter 6 – Q47] Another member expressed a wariness around the utility of socially rented homes over affordable homes. They noted that **although building homes for socially rent is theoretically better** for low-income households, often these households are in receipt of housing benefit, which is set relative to costs. Therefore, **households in socially rented homes can receive less housing benefit than those in affordable homes, leaving them no better off financially.** Social housing is also much expensive for councils to deliver because it tends to be less financially viable. **This member suggested that revisions to national planning policy should attach more weight to affordable rent homes.**

## 2.6 Fees, local authority funding and a stretched planning system

- 2.6.1 [Chapter 11 - Q94, Q91] **Allowing local planning authorities to set their own planning application fees is generally supported and seen as necessary given the historic decrease in local authority funding.** Members told us that this would give LPAs flexibility to vary fees within prescribed limits and help more accurately fund planning departments. Other fee increases including increasing householder fees to meet cost recovery to £528 have been supported by our members.

2.6.2 [Chapter 11 - Q 96] One member told us that a **“major concern” is planning enforcement and therefore it is vital that local authorities can properly resource their enforcement service.** Doing so would benefit from being able to increase fees that fairly reflect the costs of delivering good planning services.

## 2.7 Empowering local authorities to address housing need

2.7.1 **Housing targets could be revised to a more practical number and better reflect local context. If they remain excessively high, this risks slowing down plan-making** with local authorities forced to go “back to the drawing board”. Given respect of local democracy and legal mandates for local authorities to consult with local residents and adhere to strict planning requirements, this could mean years lost to speculative development.

2.7.2 **Perceived conflicts between targets and agreed local plans has the potential to “undermine” the plan-led planning system.** This is because large increases in housing targets in many areas is expected to contribute to unsustainable speculative development that will lack the required infrastructure/amenity.

2.7.3 **Land banking must be taken seriously.** As SEC said in its response to the previous government’s consultation on the NPPF in March 2023, our members have suggested practical solutions to delivering timely housebuilding and land banking by developers, including the ability to apply Council Tax to permitted deliverable but incomplete homes, or the ability to withdraw planning permission where there is undue delay.

2.7.4 **Local authorities must be equipped with greater powers\_i.e. more “carrot and stick” to hold developers to account on their commitments to build high quality affordable homes in the right places.** Too often developers are allowed to row back on agreed commitments on housing numbers and affordability. Local planning authorities can approve land to be used for housing but have little control over what is ultimately built there – yet are blamed for suboptimal buildout.

2.7.5 Local authorities should be granted further powers to demand higher proportions of affordable housing to circumvent questionable and arbitrary viability calculations driven by profit maximisation rather than local need.

2.7.6 **Greater funding of currently overburdened and underfunded planning departments would assist local authorities to deliver the kind of homes needed in their areas.** Greater flexibilities to raise planning fees could go some way towards this goal, but it may simply not be enough. A more substantial option would be increasing overall funding to local planning authorities alongside the kinds of new powers suggested above.

2.7.7 There is also **scope for greater cross-boundary working** between councils to deliver more housing. There are of course differences of opinion on how this could happen. *[Chapter 3 – Q10] One of our members told us that in the long run – new guidance produced by Government on appropriate geographies e.g. “housing market areas” / “functional economic areas” could assist in the difficult decision-making process where “Spatial Development Strategies” are produced.* [Chapter 3 – Q12]

2.7.8 Another member told us that the Duty to Cooperate has been ineffective to support strategic planning matters outside of city regions – and that national and sub-national plans would support more effective cross-boundary cooperation. **Centralised housing targets are not ideal and could be compared and contrasted with a return to a pre-2011 style regional model aiming to strengthen local government structures, rather than dictate top-down.**

- 2.7.9 Some parts of the South East are fundamentally different to the national picture. In some places, multiple local authorities can overlap with multiple national parks. Provisions for neighbouring authorities to help meet need may be unsuitable when this is the case over even functional economic areas. Specific guidance could be produced to address areas in exceptional circumstances and to consider provisions to meet need over even larger strategic areas than functional economic areas.

## 2.8 Climate and mitigation

- 2.8.1 The presumption in favour of sustainable development should, to a greater extent, allow places to be enabled to plan positively for growth, protect their most valuable countryside spaces as well as the identity of towns and rural communities, and enhance green and blue infrastructure with development, SEC was told. This would address concerns both of the need for development but also with the right kind of development. **The NPPF could be strengthened to enhance protections of the most important areas of countryside and promote biodiversity and green infrastructure.**
- 2.8.2 **Some members have reported to SEC that they would support flexibilities to allow local authorities to go beyond the envisioned Future Homes Standard** if that is what is desired locally. Many feel that they are more ambitious than the minimum standard being proposed – as elected representatives feel that they have a democratic mandate to be more ambitious.
- 2.8.3 [Chapter 9 – Q78] One member said that **national policy could require new builds to be provided with solar panels, higher building standards, and greater water efficiency standards** including reducing surface water flooding through changes to building regulations.
- 2.8.4 [Question 36] One member suggested that **there is an opportunity to use biodiversity net gain (BNG) to deliver enhancements for nature in the Green Belt** – by requiring the delivery of a higher percentage of BNG than prior in areas identified as “Grey Belt” or that are Green Belt but are being released for development. They explain this could be higher than the national statutory 10% or local policy requirements.
- 2.8.5 [Question 79] A member told us of the potential of local authorities taking advantage of high-tech solutions as in their case they are working with an organisation funded by Innovate UK on a zero-carbon spatial planning tool to help quantify the carbon emissions associated with different spatial strategy and development site options. **Government could support and explore such tech-based solutions being used more widely.**

### FURTHER INFORMATION

Harry Cavill

Policy Manager

South East Councils

[communications@secouncils.gov.uk](mailto:communications@secouncils.gov.uk)