

The Government has published a White Paper entitled *“Fixing our broken housing market”* aimed at encouraging the delivery of new homes and making housing more affordable. This is described by the Prime Minister as *“a vital part of our Plan for Britain and a critical step along the road towards fulfilling the mission I have set out to make Britain a country that works for everyone”*. This article examines the proposals for reform of the planning process unveiled in the White Paper.

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

The first section of the White Paper aims to make sure that enough land is released in the right places, that the best possible use is made of that land, and that local communities have control over where development goes and what it looks like.

They propose to do this, firstly, by ensuring that every community has an up-to-date, sufficiently ambitious **plan for housing delivery**. The Government reiterate their commitment to intervening, where necessary, to ensure that plans are put in place, so that communities in the areas are not disadvantaged by unplanned growth. They also announce an intention to introduce secondary legislation, pursuant to the Neighbourhood Planning Bill, to require plans to be reviewed at least once every five years. The Government will also consult on changes to the National Planning Policy Framework (NPPF) to require neighbouring authorities to prepare a Statement of Common Ground to ensure collaboration where cross-boundary issues arise during plan making. In order to make plans easier to produce, there is a proposal to remove the expectation that local authorities should prepare a single local plan, with more flexibility as to how they should set out the strategic priorities that each area shall plan for. New combined authorities or elected Mayors will be able to produce spatial development strategies and allocate strategic sites.

The Government will also consult on options for introducing a **standardised approach to assessing housing requirements**, to be applied as the baseline for assessing five year housing land supply and delivery by April 2018. They feel that the lack of a standard methodology makes the process opaque for local people

and leads to too much debate and wasted time and money during local plan examinations.

In order to make enough land available in the right places, the Government is proposing to amend the NPPF so as to require authorities to have a clear strategy to **maximise the use of suitable land** when preparing their plans and to accommodate their identified housing requirement, unless there are strong reasons for restricting development. The NPPF will also be amended to indicate that great weight should be attached to the value of using suitable **brownfield land** within settlements for homes.

Financial support will be provided to encourage the use of **surplus land which is in public ownership** for housing development, and there is a proposal to ensure that all authorities can dispose of land with the benefit of planning permission which they have granted to themselves. In addition, the Government will consult on extending their flexibility to dispose of land at less than best consideration.

The White Paper also expresses a desire on the part of the Government to support **small and medium sized sites**, which provide opportunities for custom builders and smaller developers. There is a proposal to amend the NPPF to expect local planning authorities to have policies that support the development of small “windfall” sites and indicate that great weight should be given to using small undeveloped sites within settlements for homes.

There is also a proposal to amend the NPPF to require at least 10% of the sites allocated for residential development in local plans to be half a hectare or less.

The Government remains committed to the protection of the **Green Belt**. The NPPF will be amended to make it clear that Green Belt boundaries will only be amended when it can be demonstrated that all other reasonable options have been examined fully and, where land is removed from the Green Belt, local policies should require the impact to be offset.

The White Paper unveils proposals to further support the **neighbourhood planning** process by making further funding available, and amending planning policy so that neighbourhood planning groups can obtain a housing requirement figure from the local planning authority. The Government also wants to ensure that communities can influence the design of what gets built in their area, in order to encourage local communities to support development. It is proposed that the NPPF will be amended to expect that local and neighbourhood plans will set out clear design expectations and to make it clear that design should not be used as a valid reason to object to development where it accords with clear design expectations.

The final part of the first section of the Paper deals with ensuring that land is used more efficiently for development. The Government propose to do this by amending the NPPF to make it clear that developments should make **efficient use of land** and avoid building at low densities and address the particular scope for higher-density housing in urban locations.

### **Building Homes Faster**

The second section of the White Paper is aimed at ensuring that houses are built faster, once they have been planned for; the Government expresses concerns about significant lags between plans being developed and permissions being granted for new homes and those homes being built.

They propose to address this first of all by providing greater certainty in relation to **5 year housing land supply**. They propose to adopt the Local Plans Expert Group's recommendation that whether a 5 years housing land supply exists or not should be capable of being agreed on an annual basis and be fixed for a year. The Government also wants to protect neighbourhood plans by providing that they will not be deemed out-of-date unless there is a significant lack of housing delivery in the wider local authority area. Neighbourhoods will simply need to demonstrate that their site allocations and housing supply policies will meet their share of housing need in order for them to be given full weight.

The second way the Government proposes to speed up the building process is by boosting the capacity of local authorities to deliver their part of the deal, which the Government proposes to address by increasing nationally set **planning fees**. Local authorities will be able to increase fees by 20% from July this year, and the paper

says that the Government is minded to allow an increase of a further 20% where authorities are delivering the homes their communities need. The Government also wants to deter what they call "**unnecessary appeals**" and are consulting on introducing a fee for making a planning appeal. There is suggestion of a cap of £2000 for inquiries and a refund where an appeal is successful.

The next part of the White Paper deals with **infrastructure**; it refers to delays in the delivery of housing and opposition to development proposals as a result of a lack of infrastructure, such as road capacity or schools. The Government promises to target the £2.3bn Housing Infrastructure Fund that was announced in the Autumn Statement at the areas of greatest housing need. There is also a proposal to amend the NPPF so as to require local authorities to identify the opportunities for new housing that investment in new infrastructure unlocks. They also want to make it clear that local authorities should seek to maximise the potential unlocked by major new infrastructure when they update their plans.

*The next part of the Paper refers to the need to support developers to build out more quickly once permission is granted, but offers little that is new. It refers to the Neighbourhood Planning Bill which already includes a provision to allow the Secretary of*

State to prohibit **planning conditions** that do not meet the national policy tests, and a provision to ensure that pre-commencement conditions can only be used with the agreement of the applicant. It refers also to the deemed discharged provisions for planning conditions introduced a couple of years ago and invites comment about how this is working in practice. It recognises that the current system of **developer contributions**, namely section 106 obligations and the Community Infrastructure Levy is not good enough and says that the Government will examine the options for reforming it and make an announcement at the Autumn Budget.

The next part of this section is about holding both local authorities and developers to account for the delivery of homes by requiring **more information** to be provided, so there is clarity about the delivery of new homes and where blockages lie. There is a proposal for the national planning application form to include a section asking the applicant to provide information about their estimated start date and build out rate. Secondly, they propose to impose a duty on developers to provide local authorities with basic information on progress after permission is granted, and to require large housebuilders to publish aggregate information on build out rates.

The White Paper proposes to amend national planning policy to encourage local authorities to consider **how realistic it is that a site will be developed** when determining planning applications, based on the site's planning history. Similarly, the paper asks for views on whether an applicant's track record of delivering previous housing schemes should be taken into account when determining planning applications.

There is also a suggestion that national policy may be amended to encourage local authorities to shorten the **default period for the implementation of planning permissions** for housing from three years to two, except where that timescale could hinder the viability or deliverability of a scheme. There is a proposal to simplify and speed up the **completion notice** process, and new guidance will be issued to local planning authorities, following a separate consultation, encouraging the use of **compulsory purchase** powers to support the build out of stalled housing schemes.

The final part of the second section of the White Paper refers to the introduction of a **new housing delivery test** to be included in the NPPF to ensure that local authorities are held accountable for their role in ensuring the delivery of new homes. The test will highlight whether the number of homes being built is below target, based on the area's local plan figures, provided it is up to date.

Where housing delivery falls below target, it will trigger certain policy responses (such as the presumption in favour of sustainable development) to ensure that further land comes forward.

### Diversifying the Market

The third section of the White Paper includes proposals to diversify the market to achieve the amount, quality and choice of housing that people want.

The Government want to do this by supporting small and medium sized builders and **custom and self build**. One way they will do this is through the planning system, by ensuring that the exemption from the Community Infrastructure Levy for self build remains in place while longer term reforms to the system of developer contributions are being explored.

The White Paper emphasises the Government's commitment to providing good quality privately rented homes. They refer to their separate consultation on proposals to change the NPPF so authorities know they should plan proactively for **Build to Rent** where there is a need and to make it easier for Build to Rent developers to

offer affordable private rental homes instead of other types of affordable housing.

### Helping People Now

The final section of the White Paper acknowledges that England has some of the highest house price inflation and worst affordability in the OECD and looks at proposals to help households who are struggling as a result of the immediate symptoms of our broken market.

The Paper reiterates the Government's commitment to the provision of discounted **starter homes** for first time buyers who are otherwise priced out of the market. They intend to make clear through the NPPF that starter homes, like shared ownership homes, should be available to households that need them most, with an income of less than £80,000 or £90,000 in London. Eligible first time buyers will also be required to have a mortgage. There will also be a 15 year repayment period for a starter home so when the property is sold on to a new owner within this period, some, or all, of the discount is repaid. This is a longer repayment period than was originally discussed when starter homes first emerged and is aimed at reducing the risk of speculation. The Government has also altered its original proposal for a mandatory requirement of 20% starter homes on all developments over a certain size due to concerns about how that will impact on other types of affordable housing. Instead, the NPPF will be amended to introduce a requirement that housing sites deliver a minimum of 10% affordable home ownership units.

The White Paper also says that the NPPF will also be amended to allow more **brownfield land** to be released for developments with a higher proportion of starter homes by bring forward more unused employment land, other forms of underused brownfield land and allowing development on brownfield land in the Green Belt where it contributes to the delivery of starter homes. It will be clarified that starter homes can be acceptable on rural exception sites. The £1.2bn Starter Home Land Fund will be invested to support the preparation of brownfield sites to support these developments.

### Conclusion

On introducing the White Paper to Parliament, Sajid Javid, the Secretary of State for Communities and Local Government, described it as a "bold, radical vision for housing in this country". However, others have described it as a "damp squib" and the Shadow Secretary of State for Housing, John Healey, called the paper "feeble", adding: "We were promised a white paper; we've got a white flag". The Paper includes a great deal of proposals

white flag". The Paper includes a great deal of proposals on which the Government are inviting consultation responses, but very few firm commitments to reform. Ultimately, we will have to wait and see how much of the White Paper actually ends up on the statute books.

### Deborah Sharples



**Partner**  
**Cambridge**  
01223 532757  
[deborahsharples@hewitsons.com](mailto:deborahsharples@hewitsons.com)

### Gemma Dudley



**Senior Associate**  
**Cambridge**  
01223 532747  
[gemmadudley@hewitsons.com](mailto:gemmadudley@hewitsons.com)



We pride ourselves on delivering an outstanding service to a wide range of individuals, businesses and institutions including charities, educational and sports bodies. The firm's size and breadth of specialisms means each client receives the focus it requires. We operate UK wide and have worldwide reach via our network of independent law firms, LawExchange International.

This document is written as an outline guide only and any action should not be based solely on the information given here. Appropriate professional advice should always be taken in specific instances.

Hewitsons LLP is authorised and regulated by the Solicitors Regulation Authority.