

Levelling-up and Regeneration Bill: Reforms to National Planning Policy Framework

Confederation of British Industry (CBI) response

February 2023

CBI response to the reforms to National Planning Policy Framework (NPPF) consultation

The CBI is the UK's leading business organisation, speaking for some 190,000 businesses that together employ around a third of the private sector workforce. With offices across the UK as well as world representation in Brussels, Washington D.C., Beijing, and Delhi, the CBI communicates the British business voice around the world. We work with policy makers to deliver a healthy environment for businesses to succeed, create jobs, and ultimately drive growth.

The CBI represents many businesses in the construction, infrastructure, and housing sectors. These firms, as well as employers across the economy who rely on high-quality infrastructure and housing, recognise the importance of planning to the success and growth of their businesses. We therefore welcome the opportunity to share our views and insights into the reforms to National Planning Policy Framework (NPPF) and believe that industry input into the reforms will drive the best outcomes.

The views in this paper were gathered from ongoing engagement with CBI members, including but not limited to our Infrastructure Council, Construction Council, as well as individual conversations. Sectors represented include construction, energy, infrastructure, housing developers, retail, and manufacturing.

The following points represent a combined response where industry has been in broad agreement and are not a comprehensive report of all comments made. Following an outline of some headline messages, some key themes have been highlighted and the proposed changes within these categories are briefly discussed.

NPPF reform represents an opportunity to supercharge the delivery of vital infrastructure, boost the country's ambitions on homebuilding and support our transition to a net zero future.

Industry welcomes reforms to the National Planning Policy Framework (NPPF) and strongly believes that if implemented effectively, a revised NPPF can play a key role in creating a clearer and more certain system. With the NPPF being a 'material consideration' in planning decision-making, it plays a significant role in determining social and economic growth. It is vital the Framework is not burdensome to business, but supportive of development and growth.

Reforms to the existing NPPF are also vital to catalyse investment in low carbon power generation and energy efficiency that will bolster energy resilience and support the delivery of net zero. Significant delays and blocks across technologies on planning are threatening the deployment of low carbon infrastructure at the pace and scale required to boost the UK's energy resilience and meet the Government's own deployment targets. Reforms to the existing NPPF are important to improving the approval of planning consents but must happen alongside a more comprehensive reform to major infrastructure planning in order to accelerate the energy transition.

One of the largest challenges facing UK planning practices is inconsistency and variation, which generates significant uncertainty for applicants. One CBI member reported having a development plan approved by a Local Authority (LA), only for an identical version to be rejected by another LA. Another CBI member reported several cases of applications being rejected at planning committee, only to be overturned later at appeal. This uncertainty undermines investor and contractor confidence, leads to unnecessary delays in project delivery, and adds additional resource burdens to all involved parties.

It is reassuring therefore to see Government taking action on planning policy and demonstrating the right direction of travel in these reforms. In particular, businesses support the proposed plans for transitioning to the reformed plan-making system. The proposed timeline could help provide certainty and clarity for industry, allowing better long-term planning. In addition, businesses also support the review into the effectiveness of the existing small sites policy in the NPPF as this will be vital for unlocking small sites to support small and medium sized builders.

Yet, whilst the reforms demonstrate the right ambitions, business believes that the proposed NPPF changes do not go far enough to address the significant underlying issues in the system which will undermine their successful implementation. If Government fails to grasp the opportunity for meaningful change, the reforms could also risk exacerbating existing pressures and creating greater complexity for all involved in the planning system rather than delivering on its objectives.

In particular, there is a strong feeling across industry that capacity and capability issues are the principal cause of poor planning performance. Significant delays caused by Local planning authorities (LPAs) missing statutory timescales for determination and the poor quality of decisions i.e., number of decisions overturned at appeal are undermining business confidence and impacting business operations. Addressing these resourcing issues within LPAs from the outset will underpin the success of any broader reforms to the NPPF as

without sufficient planners to apply the proposed changes the effectiveness of their outcome will be limited. The CBI therefore recommends the Government prioritises addressing the labour and skills shortage through a review of LPA financing by exploring the flexibility of fee setting, to increase funding to recruit and retain planning officers. This should be complemented by greater training opportunities including the expansion of planning schools at universities to attract new people into the profession to address the skills deficit.

Changes proposed in the NPPF may also have a negative impact on the delivery of new homes and vital infrastructure. Feedback from industry suggests that the proposals essentially disincentivise planning authorities to find new suitable housing sites whilst also limiting strategic cooperation between local authorities both of which could damage delivery.

The proposed changes to the NPPF also do not address the greater prevalence and emphasis on housing, over non-residential development and infrastructure. Whilst there is no doubt that confident housing development is integral to social and economic growth, employment plays an equivalent role, especially within industries like retail and manufacturing which have large physical footprints.

Overall, the CBI welcomes the Governments appetite to reform the planning system. Although it is positive to see an active review of the framework, the proposed changes to the NPPF do not far enough to address the underlying issues with the system. The importance of the planning system is not only the success of businesses but also in social and economic growth; the CBI along with industry is ready to provide future support on progressing and implementing framework changes. In addition, the CBI will be publishing a policy insight paper on reforming the planning system in due course, setting out in more detail what any future wider reform package should entail.

Businesses will make investment decisions based on the political signals sent by government – and whilst the NPPF contains positive signposts for growth, some of its proposals have the potential to undermine industry confidence.

Negative signals to the market at a time where businesses are already facing significant challenges have the potential to encourage under-delivery and hamper development. Feedback from business suggests that a number of NPPF proposals fall into this category:

The proposed removal of the requirement to continually demonstrate a five-year housing supply for the first five years of an adopted plan will protect local plans that are failing and further restrict supply.

- Under the current system, appeal decisions on major housing schemes in local authorities without a five-year supply of housing are determined in favour of development in national policy, rather than the local plan, even when the plan is up to date.
- This incentivises local authorities to properly plan for housing. The removal of the incentive for the first 5 years will work in favour of authorities that are not supportive of new development. Under the existing system, even with the incentive, many local authorities still fail to properly plan for housing, due to local political / community support for development.
- Although the CBI welcomes the objective to incentivise plan production, by reducing the burden on authorities for the first 5 years and to ensure new plans are not undermined. The proposal reduces the importance of sufficient planning for housing

and incentivises plan production by working in favour of LPAs over industry and business investment.

- The CBI recommends that the requirement to continually demonstrate a five-year housing supply for the first 5 years of an adopted plan should be retained as the removal of it will create uncertainty around land availability and investment for developers.

The proposal to remove mandatory housing targets for LAs and allowing LAs to set local housing requirements that respond to local conditions such as demographic and affordability risks the politicisation of the delivery of much needed housing.

- Under the existing system, LPAs already have flexibility in housing targets to respond to local constraints. However, having enforceable housing targets is an important way of ensuring accountability for the levels of house building this country urgently needs. This can co-exist with decisions taken on a local level by those who know their area best.
- Under the new proposals areas with low community confidence in new developments (NIMBYism) could use local conditions to justify lower housing requirements.
- Research published by Lichfields suggests that around 40 authorities have now paused plan-making with many citing that the planning reforms are 'likely to reduce house building targets' and by implication they intend to progress plans in that environment rather than under the current system with higher targets. (Planning Matters, Lichfields, 2023)¹
- The CBI therefore recommends that housing targets remain to maximise delivery, while reducing the politicisation of much needed development. The NPPF needs to be prescriptive in the 'exceptional' circumstances that local conditions (such as demographic and affordability) would be considered to allow a local authority flexibility to set housing requirements. For example, towns and cities with predominantly higher student population.

Not requiring local authorities to review and alter Green Belt boundaries will constrain the delivery of new projects.

- In areas of land scarcity, by not unlocking new sites for delivery on the Green Belt i.e., suitable brownfield sites currently protected under Green Belt, the supply of new housing and development will be constrained.
- Currently, Paragraph 141 of the NPPF states that, before concluding that exceptional circumstances exist to justify changes to Green Belt boundaries, the LPA has examined fully all other reasonable options for meeting its identified need for development (which includes brownfield maximisation, optimising density, and sharing need with neighbouring boroughs).
- A number of CBI members have highlighted that whilst no longer being a prevention tool for urban sprawl, the Green Belt is now identified as a key means for strong environmental protections by Local Authorities. Given the often significant land scarcity in urban areas, this approach to the Green Belt is adding further pressures on housing supply. Therefore, it is essential to unlock suitable land that the Green Belt is continually reviewed to meet demand.
- The CBI recommends that LPAs should be given greater flexibility to re-designate areas of the Green Belt. The NPPF should retain a requirement for local authorities

¹ Planning Matters, Lichfields. (2023, January 30). Retrieved from Lichfields: <https://lichfields.uk/blog/2023/january/30/start-me-up-but-then-you-stopped-the-continuing-cost-of-local-plan-delays/>

to review Green Belt boundaries and the exceptional circumstances allowing for re-designation should be replaced with a 1:1 replacement scheme where an equal area of new greenspace is designated as part of the protected Green Belt. This will both support increased housebuilding and development whilst also ensuring no actual loss of the total area protected.

There are opportunities for the NPPF to be bolder in its ambition to not only increase business confidence but to help deliver on government ambitions to drive green growth.

With the NPPF being a ‘material consideration’ in decision-making, it plays a significant role in determining whether developments and projects are suitable and deliverable. It therefore has the potential to be an integral framework in enabling and driving green growth across the UK. The UK has a legally binding target to deliver a net zero economy by 2050, underpinned by an ambition to achieve a low carbon electricity system by 2035. Decarbonising at pace and scale will require significant volumes of investment into low carbon infrastructure, alongside an exponential increase in the deployment of demand-side measures. This investment has the potential to unlock huge economic growth opportunities, for example realising the UK’s onshore wind opportunity has the potential to add £45bn of economic activity across regions and create a further 27,000 jobs.² At present, however, there are a number of areas where the proposals miss opportunities to realise this potential, and without further reform will hamper rather than support industry to deliver on the UK’s infrastructure, housing and low carbon energy needs.

To unlock investment in the onshore wind industry and its supply chain, the Government should end the effective ban on onshore wind deployment in England and bring the treatment of onshore wind in line with other forms of generation.

- Delivering the Government’s own ambition to achieve a secure, net zero electricity system by 2035 will require a range of low carbon technologies that harness the UK’s natural resources.
- The role of onshore wind in the future energy system has been consistently recognised by the Climate Change Committee and by Government itself – with the British Energy Security Strategy stating that onshore wind is one of the cheapest forms of renewable generation.³
- The onshore wind opportunity is also recognised by businesses across the economy, either in the form of small-scale self-generation or procurement through Power Purchase Agreements (PPAs), as a route to bolstering business energy resilience and delivering against corporate net zero ambitions.
- However, current policy and planning regulation stops short of providing a supportive framework that enables onshore wind to be rolled out effectively in England, hindering both repowering, life extension and new deployment.
- Whilst this consultation does recognise that amendments to the NPPF are necessary to unlock onshore wind in England, business does not believe that the proposed changes are sufficient to overcome the challenges.
- Footnote 54 in the existing NPPF has maintained the de facto ban on onshore wind. Industry cautions that the proposed amendments [redrafted as footnote 63] maintains

² *The onshore wind industry prospectus, Renewable UK, October 2021*

³ *British Energy Security Strategy, BEIS 2022*

the presumption against the development of onshore wind and therefore does not provide businesses and investors with the confidence to invest in onshore wind, at a time when investment in low carbon infrastructure needs to be accelerated.

- Furthermore, whilst business supports the important role of local communities throughout the lifecycle of onshore wind deployment, and in the broader net zero transition, proposed footnote 62 becomes unclear and redundant whilst the redrafted footnote 63 remains.
- The complexity and ambiguity in the amended footnote 63 neglects to bring the planning framework for new onshore wind in line with other technologies.
- Industry therefore recommends the removal of redrafted footnote 63 and Government to continue to work constructively with the sector to ensure that community engagement is carried out well by industry.

Further amendments are needed to the NPPF to maintain and maximise existing low carbon generation capacity.

- Whilst the focus on onshore wind often sits with the deployment of new capacity, maintaining and investing in existing assets will protect and bolster vital low carbon generation capacity.
- Without repowering, the UK is at risk of losing 9GW of the current 14GW onshore wind capacity by 2040.⁴
- The business community was encouraged by the support for repowering in the British Energy Security Strategy and is pleased that the NPPF retains repowering with the inclusion of life extension.⁵
- However, the industry also notes that the distinction between repowering and life extension risks adding further ambiguity to the planning application and approval process.
- To support the approval of planning consents for all onshore wind developments, industry recommends supplementary clarity on the definitions for repowering and life extension.

Greater support for energy efficiency improvements within planning policy will improve energy performance, reduce energy bills, and align with the delivery of net zero targets.

- The CBI welcomes the Government's recent ambitions to increase both the pace and scale of energy efficiency measures, including the commitment of a further £6bn funding for energy efficiency post-2025. This comes at an important time, as the spike in wholesale prices over the last year, and the cost-of-living crisis has demonstrated urgent need for action on energy efficiency to reduce fuel poverty, reduce bills and drive progress towards energy efficiency.
- In England, domestic buildings built before 1900 account for 17% of the entire residential building stock, with those built between 1900 and 1945 representing a further 5%⁶. Properties in conservation areas, including large non-domestic buildings, also have typically worse energy efficiency, experience lower investment in retrofitting, and consume notably higher levels of energy owing to poor energy efficiency. Effects can be directly attributed to planning requirements for otherwise

⁴ *Repowering Onshore wind, RenewableUK – Energy UK – Scottish Renewables, January 2023*

⁵ *British Energy Security Strategy, BEIS 2022*

⁶ *Carbon reduction scenarios in the built historic environment, University of West England prepared for Historic England, September 2020*

permitted development that only apply to properties by virtue of them being located inside a conservation area.

- At present, planning rules can hold back households and businesses from improving their energy efficiency in conservation areas and listed buildings. Therefore, the proposal of a new Paragraph 161 and its intention to give more weight to the importance of energy efficiency through the adaptation of existing buildings, is hugely welcomed. It will ensure building regulations not only enable energy efficiency improvements but are increasingly aligned with the delivery of net zero objectives.
- To enable this, energy efficiency should also be considered as a public benefit during planning decisions. For instance, Paragraph 205 states that “[any] harm [to a heritage site] should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.” The public benefit of improved energy efficiency is not only in line with the delivery of net zero targets but is also linked to reduced energy bills⁷ and improved health⁸ and should therefore be included as such. This should encourage removing the barrier of requiring planning permission for simple retrofit measures like double glazing and must also make it easier to install low carbon technologies like heat pumps and solar panels.
- In addition, whilst referenced in the new paragraph 161, Chapter 16 requires further detail on the balance between heritage versus harm impacts. Currently this section risks being open to inconsistencies with lack of synergy to paragraph 161 which states that “significant weight” should be given to energy efficiency measures. Meanwhile in Chapter 16 it is also stated that “great weight” should be given to the asset’s conservation. At present this could lead to increasing uncertainty as to whether energy efficiency or conservation should be prioritised.

The NPPF also represents an opportunity to utilise planning as an effective enabler tool to support other parts of the economy in addition to housebuilding.

The NPPF is an opportunity to not only look at getting more sites for small builders, but to think more widely about how to support SME developers.

- Businesses overall support the review into the effectiveness of the existing small sites policy in the NPPF (paragraph 69 of the existing framework), it is essential the NPPF unlocks small sites to support small and medium sized builders.
- The current one-size-fits-all planning system is complex and cumbersome for small and medium builders. With delays in the system having greater costs on smaller developers the viability of many small sites for smaller developers is negatively impacted. As a result, many small businesses have been priced out of the sector.
- The NPPF should encourage and support the division of larger sites to support suitable land availability for small and medium sized builders.
- The NPPF should also encourage and incentivise collaboration between small/medium sized developers in the sector for the delivery of larger sites with a clearer simplified way for joint plans on a single site to be brought forward.
- The CBI recommends the Government looks at how more widely small and medium developers can be supported through the planning system, for example, through shorter statutory time scales for small sites with discount/refunds for delays due to LPA performance.

⁷ Investing in energy saving solutions could save billions, E3G, June 2022

⁸ The importance of household energy efficiency for health and well-being, Public Health Wales, December 2021

Introduce 'Growth targets' for local planning authorities which will encompass both housing and employment zone targets.

- CBI members from a range of sectors have raised concerns that the planning system and framework gives greater consideration to housing over non-residential development, which is essential to employment and the economy. This includes ensuring sustainable supply of minerals (the CBI Minerals Group has made a separate submission).
- The interdependency of housing and employment should also be reflected in the planning system, with better planning for employment zone and housing within local plans and development plans.
- Overall, as the NPPF moves away from mandatory housing targets, this is an opportunity for the Government to better plan for non-residential developments.

Reform the sequential test to better support non-residential development.

- CBI retail members have been vocal about the application of the sequential test and have echoed the importance of business in town centres. Retailers not only provide employment opportunities and support local economies but are also an integral part of communities.
- The legal interpretation of wording relating to the sequential test within the NPPF means, in practice, the test is applied based on stringent interpretations about whether a town centre site is 'suitable and available' for a proposed development, not whether that development could be altered to fit a more central site.
- The sequential test should locate retail proposals within town centre locations, before edge-of-centre and out-of-centre sites. This will help regenerate town centres and high streets.

Failure to put in place the right 'plumbing' to resource planning departments and align key partners and agencies behind projects risks slowing down delivery.

The success of any reform to the NPPF and wider planning system is dependent on appropriate resourcing and effective cross-agency collaboration. The failure to put in place the appropriate foundations risk exacerbating existing pressures slowing down the delivery of much needed development, an integral contributor to UK growth.

Dropping the duty to co-operate between authorities will have a negative impact on the delivery vital infrastructure projects.

- Dropping the duty to co-operate between authorities without a clear replacement measure will have a negative impact on long-term, strategic planning for issues crossing administrative boundaries, and the delivery of vital infrastructure projects. The Government needs to set out detail of the new test in advance of the abolishment of the current duty.
- While the CBI appreciates the Government's intention to replace the duty with a new 'alignment policy', as the duty has resulted in the failure of many local plans due to its pass/fail method, the lack of detail on the new test at this stage does not provide clarity for an industry that is dependent on long-term certainty and clarity.
- Although CBI members recognise the ineffectiveness of the current pass/fail test, they note its importance in guaranteeing collaboration between local authorities and

agencies. The risk of moving away from a prescriptive pass/fail will disincentivise local authorities to work with neighbouring boroughs and agencies.

- The CBI recommends that any removal of the duty should be accompanied by other strategies to ensure better/effective collaboration between local authorities and statutory consultees.

Addressing resourcing issues within LPAs from the outset will underpin the success of any broader reforms to the NPPF and are key to the UK driving forward progress in green technologies such as onshore wind.

- The biggest cause of delays to development identified by industry is capacity and capability issues. Labour and skills shortages are the principal cause of poor planning performance.
- Significant delays caused by LPAs missing statutory timescales for determination and the poor quality of decisions i.e., number of decisions overturned at appeal are undermining business confidence and impacting business operations.
- Addressing these resourcing issues within LPAs from the outset will underpin the success of any broader reforms to the NPPF. If we do not have sufficient planners to apply the proposed changes the effectiveness of their outcome will be limited.
- The CBI also recommends giving local planning authorities greater flexibility in fee setting (which currently sits with central government) and allow authorities to outsource planning functions to drive competition and performance and reduce cost. In the case of onshore wind, the industry notes that as a result of the de facto ban, the relevant knowledge base and resourcing within LPAs has been depleted, impacting LPAs' ability to effectively identify suitable areas and process applications for onshore wind developments. To support the approval of planning consents for all onshore wind developments, industry recommends that a programme to upskill LPAs is implemented to ensure the resource and knowledge is available to process applications.

As we continue to convene leading voices on the importance of planning reform, we look forward to continuing to shape government policy development and implementation in this space.

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