

**The Revised NPPF:
Housing policies, housing need and housing numbers.**

Christopher Boyle QC

Background:

- Housing White paper: fixing our broken housing supply (Feb 2017)
- Historic failure; political hot potato
- Localism vs reality
- SHMAs and policy-based evidence
- Sajid Javid statement Sept 2017
- ‘Planning for the right homes in the right places’ – standard methodology OAN – for PPG (Govt Response, March 2018)
- ‘Housing Delivery Test’ – draft rule book (March 2018)

Numbers: 'local housing need assessment'

- Glossary: 'identified... through application of the standard method, or a justified alternative approach'.
- When may one deviate?: Sept 2017 Consultation: 'non-aligning boundaries' [eg N Parks]; 'if want more'; 'very limited grounds, if want less' – tested 'rigorously' at Examination.
- Govt Response to Consultation (March 2018): p.10: 'we expect the standard methodology to be used unless there are *exceptional circumstances*'
- Para. 60: 'objective of significantly boosting supply of homes' (old para.47)
- para. 61: should be based on standard methodology 'unless exceptional circumstances' and take account of unmet need.

Plan making:

- Para 11 (old 14): Dvt plans 'as a minimum' OAN (with caveat)
- Footnote 7 (closed list) but NB what is in it ['irreplacable habitats']
- 'strong reason'
- Para 23: Minimum 15 years; 5 yearly reviews
- Para. 24: clear strategy bring sufficient land forward at sufficient rate to address OAN
- Para. 36 (old 182): Soundness: 'positively prepared': 'as a minimum' 'as much as pos of OAN; and unmet need 'where practicable'

Where?



- Para. 68: SHLAA: ‘specific deliverable sites’ yrs 1-5; ‘specific deliverable sites or broad locations for growth’ yrs 6-10, and ‘where possible’ yrs 11-15.
- But, para. 78: trajectory over whole plan period
- Para. 69: encouraging small sites (>20% <0.5Ha), windfalls and subdivision of large sites.
- Para. 72: encouraging exception sites for ‘entry level housing’.
- Para. 73: encouraging ‘larger scale, new settlements and significant extensions to existing villages and towns’.
- Para. 66: Strategic Plans should set out housing numbers for Neighbourhood Plans, which (para. 31) should not promote less development than set out in Strategic Plan.
- Chapter 9 (Sustainable transport): strong on realism of accessibility in rural areas

Where not?

- ‘footnote 7’ [old footnote 9 but important differences]
- SAC/SPA/SSSI; GB, LGS, AONB, N Park, Heritage Coast, ‘irreplaceable habitats’ including ancient woodland; aged or veteran trees; designated heritage assets, flooding.
- Caveats para. 11(b)(i) if provides ‘strong reason’ not to provide OAN
- [NB for s. 70/78, para. 11(d)(i) text is ‘clear reason’]
- Glossary for ‘irreplaceable habitats’; para.173(c) loss or deterioration ‘wholly exceptional’
- Green Belt: para. 136 before changing boundaries/allocating must have ‘examined fully all other reasonable options for meeting need, including: brownfield, densities and neighbouring authorities’.

Maintaining supply and delivery:

- Para. 74: trajectory for whole plan period
- Para. 74: annual update of 5 years supply plus buffer
- Buffer is 5%, or 10% if using an 'annual position statement' [see Glossary], or 20% if Housing Delivery Test shows delivery was <85% of requirement
- Para. 76: can demonstrate 5 yr HLS + Buffer if within one year of a Plan's adoption, or the annual position statement has been endorsed by the SoS.
- Para. 77: Action plan if Housing Delivery Test shows delivery <95% over 3 years.
- Para. 75 (new '49'): para. 11(d) applies if cannot show 5 yr HLS (+buffer) [prospective] or Housing Delivery Test shows delivery <75% over 3 years [performance] – though see transitional provisions in para. 211.
- Para. 14: protection to NPs if no 5yrs HLS/HDT<75%, but LPA has 3 yrs supply and HDT>45%

Other relevant policies:

- Para. 64: no affordable other than on major sites (>10 units) or designated rural areas (>5 units); and gross floorspace discount for vacant buildings.
- Para. 65: in major developments 10% = affordable home ownership unless ‘significant prejudice’, or solely Build to Rent, special needs, self-builders or entry level housing
- Para. 69: encourage design tools & LDOs
- Chapter 11 (effective use of land): avoid too-low densities, allow upward extensions, use brownfield registers, use employment land unless undermines economy.
- Chapter 12 (design): encourages design guides and codes and local engagement; para. 129 (old para. 640).
- Para. 168: valued landscapes protected ‘in a manner commensurate with their statutory status or identified quality’ [?]
- Para. 173: irreplaceable habitats ‘loss or deterioration’ ‘wholly exceptional reasons’.