



DRAFT NPPF CONSULTATION RESPONSE, FEB 2023

This is a working draft of our response to the [Government's consultation](#) on changes to the National Planning Policy Framework. We are sharing this draft of our consultation response to:

1. Help others, particularly our members, in making their own responses to the consultation (you may copy and adapt our proposals).
2. Invite feedback on ways to improve our proposals before we submit our final response.

INTRODUCTION

The Community Land Trust Network is the official charity supporting Community Land Trusts (CLTs) in England and Wales. We are a membership body and represent 350 CLTs with over 1,800 homes and other assets, and which together have plans to deliver 7,000 homes by 2026.

The Government's policy has been to "increase housing supply in England by increasing the number of additional homes delivered by the community-led housing sector"¹, reiterated in a manifesto pledge in 2019 to support community housing.

Welcoming research on the pipeline of community led homes in September 2021, the Housing Minister noted that the sector has "an important, indeed you might say, unique contribution to make to meeting our housing need" and that the projects in the pipeline "align very closely with many of MHCLG's ambitions".

The current minister reiterated her interest in these approaches at a meeting in December 2022.

Baroness Scott of Bybrook, in a letter to Baroness Jones of Moulsecoomb, wrote in January 2023 that the sector "will help deliver a range of benefits including diversifying the housebuilding sector, improving design and construction quality, developing modern methods of construction and helping to sustain local communities and local economies." She added that the "close involvement of the local community enables the community-led approach to secure planning permission and deliver housing that could not be brought forward through mainstream development."

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<https://www.gov.uk/government/publications/community-housing-fund-prospectus/community-housing-fund-prospectus-accessible-version>

The key government policies that community led housing can assist with include:

- **Diversifying the housebuilding industry** and **raising quality**. The Bacon Review identified the potential for community led housing to achieve this, and made recommendations on how the planning system could enable this including a targeted exception site policy. The Building Better Building Beautiful Commission also noted the potential for community led housing to develop higher quality housing.
- **Increasing rural affordable housing delivery**. Both the National Audit Office and Public Accounts Committee have criticised the Government for the lack of affordable housing delivery, particularly in rural areas, and there is considerable potential to permanently increase the level of community led housing development in those areas.
- **Levelling up**, as identified by the Kruger review for the Prime Minister, the Create Streets Foundation's commission on left behind areas, and research by the UK Collaborative Centre for Housing Evidence for Power to Change. These have all identified the potential of community led housing to support the levelling up missions, and the ripple effects of projects that also involve community centres, high streets and other local amenities.

We welcome recognition of community-led development in the National Planning Policy Framework, and make the following proposals to increase the number of additional homes delivered by the community-led housing sector.

RESPONSES TO CONSULTATION QUESTIONS

Q.22: Do you agree that the government should revise national planning policy to attach more weight to Social Rent in planning policies and decisions? If yes, do you have any specific suggestions on the best mechanisms for doing this?

Yes. The majority of the 350 CLTs in England aim to build new homes for social rent. Local authorities' Strategic Housing Market Assessments and CLT-led local housing needs surveys very often find a significant need for this tenure.

We would suggest that requirements to provide First Homes and other low cost affordable ownership tenures are relaxed or removed in areas with evidence of high levels of need for social rent homes. Subject to grant levels from Home England, any cross-subsidy from open market sales should be prioritised for social rent homes. Local authorities should also be able to set specific requirements for levels of social rent provision across the local area and in relation to specific major developments.

Q.24 Do you have views on the effectiveness of the existing small sites policy in the National Planning Policy Framework (set out in paragraph 69 of the existing Framework)?

This policy has minimal effectiveness in creating more opportunities for CLTs.

Sub-paragraph 70 (a) results in the allocation of sites that are inaccessible to most CLTs. This is particularly the case when those small sites come with no planning obligation to provide affordable housing. This is because CLTs will generally want to provide high quality housing and a significant proportion of affordable homes, and so are generally uncompetitive when bidding for the land in the open market with developers building no affordable housing and to the lowest permitted standards. This is exacerbated by the higher cost of finance for CLTs that wish to develop directly - as (relatively) new market entrants without significant working capital and equity to borrow against.

Local planning authorities are generally too under-resourced to make full use of Local Development Orders and Neighbourhood Planning Orders. We would welcome their wider application.

The Letwin Review recommended that the planning framework for large sites more explicitly encourage diversification. He concluded that the existing phrasing in sub-paragraph 70 (d) about sub-divisions “does not, in itself, provide a sufficient guarantee that the large sites will be significantly more diverse than they have been over recent years, and therefore does not, in my judgement, offer the prospect of significant increases in the rapidity of build out on such sites”. In our experience this policy has not led to any diversification of opportunities on larger sites. But opportunities are emerging where Local Plans set requirements for a percentage of self and custom build housing on larger sites, and where they recognise the potential of community led development to discharge some of all of this obligation.

Q.25 How, if at all, do you think the policy could be strengthened to encourage greater use of small sites, especially those that will deliver high levels of affordable housing?

Our first two proposals are to more explicitly identify the potential of small sites for community-led development, and to enable the inclusion of affordable housing requirements. This would give local authorities confidence to include appropriate policies in their Local Plans.

Amend para 70 as follows: “Small and medium sized sites can make an important contribution to meeting the housing requirement of an area, ~~and~~ are often built-out relatively quickly ~~and~~ provide opportunities to diversify provision by SME builders, self and custom build and through community-led development. To promote the development of a good mix of sites local planning authorities should...”

Amending sub-paragraph 70 (a) as follows: “on sites no larger than one hectare *including affordable housing requirements where appropriate*”, the following: “identify opportunities for

community led development on small and medium sites and consider requiring affordable housing

Local authorities such as Bristol City Council and Liverpool City Council have created policy frameworks for the disposal of council-owned assets to deliver high levels of affordable and community-led housing. These give emphasis to the social value of bids for land and buildings, measured against those authorities' wider policy objectives. We would also propose a further sub-paragraph under paragraph 70 as follows: "*identify opportunities for community-led development, self and custom build and SME builders on sites owned by the local authority and consider the optimal use of the land to achieve sustainable development.*"

Some local authorities are beginning to apply percentage requirements for self and custom build to larger sites, and to consider how this might also present opportunities for SME builders and community-led development. Among Letwin's proposals was that the NPPF be amended to require those owning such sites to provide a diversity of offerings on the site which are able to address the various categories of demand within the local housing market.

We propose to amend para 70 sub-para (d) as follows: "*create an expectation that developers to encourage the sub-division of ~~subdivide~~ large sites where this could help to speed up the delivery of homes and provide opportunities within each phase for self and custom build and community-led development to serve local needs, and reflect this in policies relating to large allocated sites.*"

Our proposal to amend para 63 would provide the basis for assessing the local need for people and community-led development groups wishing to commission or build their own homes. This amendment would then create an expectation that this is reflected in plans for each phase of larger sites and in Local Plan policies relating to specific large allocated sites. This could be caveated to only apply to sites with 1,500 homes or more, a threshold proposed by Letwin.

We would also suggest reference could be made to opportunities for community-led development, as for example Cherwell District Council have done in requiring active consideration of proposals in Policy BSC 3 of their 2011-2031 Local Plan. We propose, in paragraph 74, introducing after sub-paragraph (d) the following: "*create opportunities for and require active consideration of proposals for community-led development and self and custom build housing.*"

Q.26: Should the definition of "affordable housing for rent" in the Framework glossary be amended to make it easier for organisations that are not Registered Providers – in particular, community-led developers and almshouses – to develop new affordable homes?

The NPPF was changed in 2018 to define affordable housing for rent as being provided by a landlord that is a registered provider. We understand and fully support the Government's drive to improve the regulation and oversight of affordable housing for rent, and agree that in the main providers should be registered with the Regulator of Social Housing.

Since 2015, providers have been expected to fully meet the requirements of the regulator from the point of registration. This has made the process an onerous, time consuming and expensive process for very small, volunteer-run organisations, especially those just starting up. Some have undertaken the work despite that, particularly when they could access funds through the Community Housing Fund to obtain expert support. But others remain put off, and faced with the choice of registering or not being able to take a project forward the risk is that they opt for the latter.

Local planning authorities have previously permitted non-registered landlords to qualify, either on a case-by-case basis or with reference to a local policy with appropriate tests. For example:

- Leeds City Council accepted a number of community organisations onto its affordable housing list as long as they have been approved in writing by the Chief Planning Officer, who would test they are financially robust, committed to future investment in the city, can protect affordability in perpetuity, and have satisfactory management in place. This has included Leeds Community Homes, a CLT that was taking 19 affordable homes as part of the s106 agreement with a private developer.
- Scarborough Borough Council recognises non-Registered Providers such as independent local charitable trusts in their 2022 Affordable Housing SPD, whereby they expect equivalent arrangements to affordable housing as provided by a Registered Provider, giving Almshouses as an example.
- Glendale Gateway Trust, a CLT in Northumberland, developed and managed 4 homes while unregistered. This developed the organisation's capacity, expertise, policies and procedures which put it in a good position to later register with the regulator ahead of developing a further 18 using Homes England funding.
- Seavingtons CLT in Somerset was gifted 3 homes for rent by a local landowner developing homes on his land and uses a local managing agent to look after the properties and tenants. It has no further development plans and very little capacity to engage with the registration process.
- Not a planning matter, but Bristol City Council will provide capital grants to non-registered providers subject to their meeting some Management and Governance standards. These are based on the RSH's 7 standards but with a lighter touch and an emphasis on self-certification.

There are more projects like those above in the works. For example, Hexham CLT is working to acquire two empty shops in its town centre and convert the space above into two homes, but is concerned that the NPPF definition may obstruct the project.

We propose, in Annex 2, glossary, to add: "the landlord is a registered provider *or other provider deemed appropriate by the local planning authority*"

Our proposal would give the local authority the leeway to exercise judgement in these niche cases, as many have been doing.

Q.27: Are there any changes that could be made to exception site policy that would make it easier for community groups to bring forward affordable housing?

The NPPF currently gives great weight to conserving and enhancing landscape and scenic Beauty in National Parks, the Broads, AONBs and Heritage Coasts, as it should. But there is no equivalent weight given to the interests of communities living in those landscapes.

This fails to reflect the duty of National Parks to foster the social and economic wellbeing of the local communities, and of the Broads Authority's duty to have regard to the economic and social interests of those who live or work in the Broads. (No equivalent duties apply in AONBs, but the issues remain much the same, and the NPPF's overriding emphasis on sustainable development should apply.) The Government's vision and circular on National Parks and the Broads makes clear that affordable housing should be supported in these areas, and states the Government's "expectation is that new housing will be focused on meeting affordable housing requirements, supporting local employment opportunities and key services"². This is precisely the kind of development that community-led applicants propose, led by and supported by the local community, to meet existing local needs and secure the sustainability of their settlement. But the NPPF protection often leads to planning officers recommending against community-led development of this kind because of the weight given to landscape protection.

The Secretary of State told the Levelling Up, Housing and Communities Committee on the 21st November that he wishes to see more affordable housing in these rural areas. Giving these applications a countervailing weight would rebalance the system without undermining the important protections to those landscapes from speculative market development.

We propose, after para 181, to add: "**Community-led developments on Rural Exception Sites in communities with housing affordability pressures within National Parks, the Broads, Areas of Outstanding Natural Beauty and Heritage Coasts should be given great weight.**"

While the NPPF recognises a proportion of market homes may be included in exception sites to make them financially viable, it doesn't recognise the role that market homes can play in securing land opportunities. Several CLTs have struck deals with landowners whereby the farmer gets to build/receive a couple of homes for their family alongside the affordable homes.

So in Annex 2, glossary, add: "**Rural exception sites:... for example where essential to enable the delivery of affordable units without grant funding *or where landowners need to be incentivised by providing them with market plots instead of a payment for a site and the level of grant funding is consequently reduced.***"

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<https://www.gov.uk/government/publications/english-national-parks-and-the-broads-uk-government-vision-and-circular-2010>

Q.28: Is there anything else that you think would help community groups in delivering affordable housing on exception sites?

Existing NPPF paragraph 156 requires local planning authorities to 'support community-led initiatives for renewable and low carbon energy, including developments outside areas identified in local plans or other strategic policies that are being taken forward through neighbourhood planning'. Low cost community led housing is as important as community led renewable energy projects, if not more so.

The East Cambridgeshire Local Plan policy GROWTH 6 with an associated SPD (2016) classifies them both as 'community-led development' that should be supported³. This policy has been incredibly successful in bringing forward more high quality development in the district, as have rural exception sites in rural areas. It has also enabled a Neighbourhood Forum to designate a site outside their village's development envelope for community-led development⁴.

We believe the exception site concept could have wider application across the country, with housing growth and town centre regeneration being two fruitful areas of application. The Bacon Review also proposed a greater application of the exception site policy in rural areas.

We propose the introduction of the concept of Community Led Exception Sites. This provides a path for communities to grow on the edges of their settlements, and to repurpose assets in places like town centres. It gives landowners and developers a significant incentive to work through the CLT structure to embed community participation and control in development.

Add a new policy in chapter 5:

Local Planning Authorities should support the development of community-led exception sites for affordable housing. These sites should be on land which is not already allocated for housing, or existing buildings for which an application is made for a change of use, and should:

(a) be adjacent to or within existing settlements, be proportionate in size to them, be appropriate to the level of affordable housing need, not compromise the protection given to areas or assets of particular importance in this Framework, and comply with any local design policies and standards.

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<https://www.eastcambs.gov.uk/sites/default/files/Com%20Led%20Dev%20SPD%20as%20adopted%2025%20Feb%202016.pdf>

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<http://www.eastcambs.gov.uk/local-development-framework/swaffham-bulbeck-neighbourhood-plan>

(b) include some market housing where it would help to facilitate the delivery of the site, and where the community benefits of the scheme are significantly greater than would be delivered on an equivalent open market site

(c) be community-led development and have evidence of meaningful public engagement and local community support

We support proposals developed by the CLA for a 'Rural Exception Site Passport'. We also believe there is potential in combining an exception site policy with design codes to further simplify the process and increase certainty that appropriate community-led development will be permitted.

Q.29: Is there anything else national planning policy could do to support community-led developments?

First, we wish to welcome the inclusion of a definition of community-led development in the glossary. When Jo Lavis MRTPI prepared a planner's guide to community led housing for Community First Yorkshire in 2019⁵ she found many examples of local authorities supporting community-led development through Local Plan policies and development management practice. But some local authorities were reluctant due to the lack of recognition or definition of this field in the NPPF. The inclusion of this new definition will be a significant help to those local authorities.

We would suggest that the definition is amended as follows:

"Community-led developments: Community-led developments are those that are driven by non-profit organisations that are *owned controlled* by and accountable to their *specified* community *members*. The community group or organisation owns, manages or stewards the homes and other assets in a manner of their choosing, and this may be done through a mutually supported arrangement with a Registered Provider that owns the freehold or leasehold for the property. The benefits to the specified community are clearly defined and legally protected in perpetuity. *Community led development is capable of providing affordable housing, and can qualify as a group or association of individuals for the purposes of self and custom build housing.*"

The changes in the first sentence reflect the sector's experience of organisations that are not really controlled by the specified community trying to pass themselves off as community-led. This phrasing is more clear. The final sentence addresses two points of confusion for some planning authorities, so clarity in the NPPF would be helpful.

Currently para 63 requires that planning authorities assess the needs of 'people' wishing to self or custom build. The Bacon review recognised that the current definition of self and custom build housing includes associations of individuals wishing to commission or build their own

⁵ <https://www.communityledhomes.org.uk/resource/planners-guide-community-led-housing>

homes, but that it doesn't capture scenarios where community groups bring forward development for which the first occupants have not yet been identified, and so cannot have a primary input into the design of the homes. We support calls from the National Custom and Self Build Association to tighten up the application of the legislation in this area. But the Bacon review nonetheless recommended these forms of community-led development - which should not qualify as self or custom build - be supported by the planning system under the umbrella term of self-commissioned housing. The NPPF should therefore create an explicit expectation of assessing this demand from community-led development groups, and then reflecting that in their planning policies.

In chapter 5, para 63, add: "people *and community-led development groups* wishing to commission or build their own homes"

We also think paragraph 74 on larger-scale development could address some of the 'fleecehold' problems whereby freeholders are charged excessive sums and provided with poor services in return, with limited right of redress. The number of private management companies has grown significantly in recent years, replacing local authorities which would previously have adopted assets like roads and open space. A campaign group, HorNet, has gathered information on 772 estates representing over 160,000 households from across the UK, which would imply an industry charging a total of at least £16 million a year and probably much more.

In rounds of consultation in 2017⁶ and 2018⁷ and in subsequent responses to the consultations the Government has committed to tackling these problems. We think the NPPF could include text to ensure that new management arrangements are, at a minimum, accountable to those paying the charges. This would also provide a hook for landowners, developers and planning authorities to explore community led approaches such as Resident Management Companies and Community Land Trusts.

In chapter 5, para 74, amend (c) "can be maintained (such as by following Garden City principles); *ensure that management bodies levying charges for residents and commercial users are accountable to those paying the charges*; and ensure..."

One final proposal relates more to the Levelling Up and Regeneration Bill and consequent regulations, than to the NPPF. But it would support and underpin the above.

The Levelling Up and Regeneration Bill introduces a new infrastructure levy, intended to replace the Community Infrastructure Levy, except for the Mayor of London CIL. A portion of the Community Infrastructure Levy can be passed to local communities via town and parish councils. But it was noted in the bill committee debate on the 23rd June that nearly two-thirds of England (63%) is not covered by a town or parish council. So the community element of the Community Infrastructure Levy is not available to two thirds of local communities.

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<https://www.gov.uk/government/consultations/tackling-unfair-practices-in-the-leasehold-market>

⁷ <https://www.gov.uk/government/consultations/implementing-reforms-to-the-leasehold-system>

The Bill proposes that the new Infrastructure Levy will retain this community element, but doesn't fix this problem. Various organisations have proposed that it could be passed on to Neighbourhood Forums as well as town and parish councils, and this was touched on in the bill committee debate on the 23rd June. This would be welcome. But this would still leave much of the country untouched. For example, in London there are no designated neighbourhood forums in 9 of the 32 boroughs, and most of the capital's area is not covered by a neighbourhood forum⁸. Establishing a neighbourhood forum is a significant undertaking, and one that is principally focused on preparing a neighbourhood plan. On average it takes a forum - once designated - over five years to achieve a successful referendum and an adopted plan⁹. Even with the incentive of greater control over the community element of the infrastructure levy, this is a big commitment for many communities.

At the bill committee debate on the 23rd June, the minister for levelling up framed the objective of this community element as 'double devolution and neighbourhood-level governance'.

There are other equally democratic local structures that could also receive the community element of the infrastructure levy, achieving greater devolution to neighbourhood-level governance.

Community Land Trusts are one such option. They are defined in the Housing and Regeneration Act 2008 with two key features relevant to this amendment. They must be democratic, with an open membership for local people. They must also use their assets for sustainable development, aligned to the purposes of the planning system.

Unlike neighbourhood forums, their principal purpose is not making plans but enacting them - developing land and assets for local benefit. So they would be a suitable alternative for communities that need a vehicle with which to receive, hold and spend the community element of the infrastructure levy on local priorities.

We would therefore recommend that the Government consider this option in the LURB and consequent regulations.

It may be desirable to strengthen the statutory requirements for CLTs and to some extent Neighbourhood Forums if they were to gain the position of receiving Infrastructure Levy monies. It would therefore be sensible to define in secondary legislation the criteria for any possible qualifying body, and to require that a Local Planning Authority assess any potential bodies against those criteria before they can be properly designated. This would have the additional benefit of encouraging community organisations to adopt robust, accountable and democratic forms of governance in order to access the money.

⁸ Neighbourhood Planners London, State of neighbourhood planning in London - 2022, https://www.neighbourhoodplanners.london/files/ugd/95f6a3_c4845aed02ea4fb3b11919a81a17a797.pdf

⁹ Ibid.

Q.52: Are there other issues which apply across all or most of England that you think should be considered as possible options for National Development Management Policies?

We would suggest that community led development would be suitable for a National Development Management Policy.

It has repeatedly been identified as a national priority by ministers. The principles we have proposed above apply equally to all planning authorities in England.

Many planning authorities are drafting similar policy, and Jo Lavis - in writing her aforementioned research - reported a lack of capacity and knowledge in many many planning authorities as to how to best enable this form of development. Our research, using freedom of information requests issued in November 2021, indicated that approximately half of local authorities in England are supporting community led housing in some form, with one in three adopting policies¹⁰. There is plenty of appetite for policy in this area.

The aforementioned guide written by Jo Lavis also provides a useful pool of example local policy approaches which could be drawn together into a national policy. In particular, we think the policy and SPD adopted by East Cambridgeshire, which we have generalised into our proposed Community Led Exception Site policy, would be a useful component of a NDMP. We would be happy to assist in drafting this.

Q.53: What, if any, planning policies do you think could be included in a new Framework to help achieve the 12 levelling up missions in the Levelling Up White Paper?

The consultation states that “changes proposed in this document will empower local leaders and give them more tools to level up their communities”. This can, and must, encompass leaders in community-led development.

One of the secrets to the successes in past levelling up initiatives such as the New Deal for Communities was the integration of mainstream service provision – housing, workspace, healthcare - into the programme through partnerships between those service providers and councils, SMEs and community groups.

Local communities can be actors and agents of change in the development and use of land, partnering with the public and private sectors. Community organisations can play a part in building, repurposing and renovating, owning, managing and stewarding homes, shops, workspace, community centres. CLTs in left behind areas are already doing this, and can be brought in as partners on private and public-sector led development to develop greater social capital and cohesion.

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<https://www.communitylandtrusts.org.uk/news-and-events/strong-council-support-for-community-led-housing-2022-foi/>

There is a strong body of evidence that enabling this agency in housebuilding and regeneration has positive impacts in terms of social cohesion, health, pride and a sense of belonging; in improving opportunities for affordable home ownership; and reducing the number of non-decent rented homes. There is also evidence of co-benefits including the creation of more jobs and training opportunities.

But currently the NPPF is silent on why, where or how this might happen.

Policies in the NPPF in support of community-led development as an integrated part of delivery, rather than a siloed niche, therefore have significant potential to support the levelling up missions. The policy changes we have suggested above would achieve this.

We set out this case in more detail in our submission to the APPG for Left Behind Places¹¹.

Q.55: Do you think that the government could go further in national policy, to increase development on brownfield land within city and town centres, with a view to facilitating gentle densification of our urban cores?

Yes. Community-led development can play a significant role here, particularly where gentle densification may be controversial locally. It also needn't only apply to brownfield.

Local consent is key, and this is as much about how policies are implemented as how they are drafted and designed. Taking suburban intensification as an example, many planning authorities have written local policies and SPDs, and are drawing up design codes, to support this end. But individual planning applications can still attract a large number of objections. In Croydon, for example, scrapping the policy and SPD was a key policy pledge of the new mayor in the 2022 local elections.

CLTs are able to implement these policies with greater local support. By working from within, and with, their local communities they can develop trust and local consent for 'opt-in' densification. For example, We Can Make in Knowle West, Bristol, has developed a design code and MMC delivery mechanism to build new affordable homes in the back gardens of existing tenanted houses, and underused garages and other bits of brownfield land. CLTs like WECH in Westminster and Leathermarket JMB in Southwark have built on garages and existing buildings to densify their estates and meet all the housing needs in their resident population. Sites developed by CLTs and other community organisations through the GLA's small sites initiative include a mixture of greenfield and brownfield land, densified with general community support. A growing number of CLTs, co-ops and others are densifying high streets, converting existing buildings for residential use and/or building new homes in those locations.

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<https://www.communitylandtrusts.org.uk/wp-content/uploads/2023/01/CLTN-submission-to-LU-WP-inquiry.pdf>

One of the barriers is the significant cost and risk of obtaining a planning consent for each development. The cost can be especially disproportionate when building only one or two homes! We Can Make has proposed an urban exception site policy similar to our general Community Led Exception Site policy. This would provide a framework within which community-led developers could gently densify their local area.

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