

Your Ref:

Our Ref: MACT0016

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Planning Policy Consultation Team  
Planning Directorate – Planning Policy Division  
Department for Levelling Up, Housing and Communities  
Floor 3, Fry Building  
2 Marsham Street  
London  
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Dear Sirs

## **CONSULTATION**

### **LEVELLING-UP AND REGENERATION BILL REFORMS TO NATIONAL PLANNING POLICY**

On behalf of our clients, Mactaggart and Mickel (Mac Mic Group), we are responding herewith to the above consultation. Our clients' response incorporates a commentary on the proposed changes to specific paragraphs in the NPPF set out in the enclosed schedule, and their more general overview contained in this letter.

Mac Mic Group are experts in the promotion and delivery of housing land with a 97-year history as a family-owned company. They operate throughout the United Kingdom working with landowners and local planning authorities to procure land to meet housing needs. They have a strong track record of working collaboratively with local planning authorities to deliver sustainable, plan-led solutions, and with a strong focus on placemaking to provide homes and environments that inspire, exceed expectations, and deliver places where people aspire to live. The company is one of the leading strategic land companies in the UK with, in addition to extensive holdings in Scotland, a combined circa 3,300 acres across 37 sites in England, all being promoted for residential or mixed use development.

As an example, in Bath and North East Somerset district Mac Mic Group have recently secured outline planning permission for up to 213 homes, pursuant to an allocation that they promoted through the Local Plan process in collaboration with the Local Planning Authority, and which has been assessed to be eligible for a Building with Nature 'Excellent' accreditation. Mac Mic Group are therefore pioneers in building better places, exceeding the expectations of both local planning authorities and communities. Their comments on the proposed changes to the NPPF are therefore based on extensive direct knowledge of housing delivery,

and of setting new benchmarks for placemaking and creating sustainable communities, and pioneering novel responses to the declared climate and ecological emergencies.

Mac Mic Group supports the Government's commitment as set out in the consultation documents to building more homes to increase home ownership, to make better places, and to restore local pride. To this end they fully endorse the commitment to making improvements to the planning system to achieve this, and to empowering communities to shape where the additional homes are built and what they look like.

Mac Mic Group note, and support, the retention of the presumption in favour of sustainable development and the three overarching objectives by which it is underpinned, not least the economic objective which necessitates sufficient land of the right types and in the right places to support growth. Given the current economic headwinds this objective is of heightened importance, and its interdependence with the social objective to ensure a sufficient number and range of homes to support economic growth, cannot be underestimated.

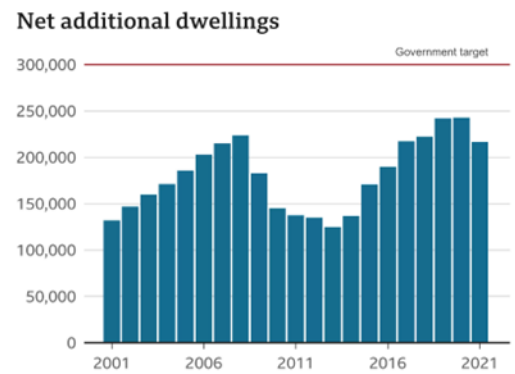
The Government's reaffirmation of its commitment to delivering 300,000 homes per annum by the mid-2020s is welcomed. Mac Mic Group concur that the best way to secure more high-quality homes in the right places is through a plan-led system, and that incentives to encourage more local authorities to adopt Local Plans, and keep them up-to-date, would be beneficial. As outlined above, Mac Mic Group have a strong track record in working collaboratively with local planning authorities to deliver plan-led developments that raise the placemaking bar, and fully endorse that approach.

Mac Mic Group concur with the Government's analysis that having a sound plan in place can mean that housing delivery increases compared to those local authorities with an out of date plan, or no plan at all. Central to a plan being sound is that it ensures a continuous supply of deliverable housing land, and which is replenished on a regular basis. This is imperative not only to ensure that homes are available when and where they are required, but to support economic growth at a time of uncertainty.

Mac Mic Group therefore welcome the Government's proposed changes to the extent that they are intended to realise the housing supply benefits at the earliest opportunity. However, based on their extensive UK-wide involvement in promoting and delivering land for housing, Mac Mic Group have genuine concerns that the proposed changes will have the contrary effect, and would likely result in a significant reduction in housing land supply and delivery, the delivery of new homes falling further behind the Government's manifesto commitment of 300,000 homes per year, with very serious consequences for affordability, homelessness and the wider economy. We hope that their submissions are of assistance to the Secretary of State in considering these matters, and our clients would be pleased to engage further on this matter if that they can be of assistance.



As noted above, Mac Mic Group welcomes the Government's continued commitment to delivering 300,000 homes per year by the mid-2020s<sup>1</sup>. However, notwithstanding that this commitment has been in place for some years, based on the Government's own published figures, housing delivery remains a long way short of meeting the target. The graph (right) is derived from DHULC's published statistics, and, based on the most recent year (2021) for which statistics are available, is heading in the wrong direction following two years of peak delivery, albeit remaining well below the Government's target and therefore contributing to the cumulative deficit against that target.



Since the then Chancellor, Philip Hammond, first unveiled the Government's target of 300,000 dwellings per annum in 2017, completions in England have totalled only 827,380 homes (2017-2021), a cumulative deficit of 626,620 homes. This deficit is equivalent to more than two years worth of housing measured against the Government's commitment.

Government data for England as a whole confirms that median house price affordability has steadily worsened over the period since the NPPF was first published in 2012, from a ratio of 6.71 in 2012 to 8.96 in 2021. As a median ratio, this means that there are parts of England where the ratio is considerably worse. As the then Prime Minister, Theresa May, acknowledged in her Foreword to the White Paper 'Fixing our broken housing market' published in February 2017, at that time, with an average house costing almost eight times average earnings, a then all-time record, it was difficult to get on the housing ladder with the proportion of people living in the private rented sector having doubled since 2,000. The latest figures indicate that, five years later and notwithstanding the measures foreshadowed in the White Paper which were intended to respond to it, affordability had materially worsened to nearly nine times average earnings.

Given these circumstances, the primary objective for housing, as set out in the current NPPF and which it is not proposed to change, properly remains that of 'significantly boosting the supply of homes'<sup>2</sup>. Mac Mic Group supports maintaining this as the overriding objective for housing, and consider that it remains as relevant and important as ever given the distance still to travel in order to meet the Government's manifesto commitment, the escalating cumulative deficit against that target, worsening affordability, and the critical support that it provides for economic growth. As is further acknowledged in the same sentence of the NPPF that sets this primary objective, in order to support it, "... it is important that a sufficient amount and variety of land can come forward where it is needed... ". It is therefore clear from the Government's own statistics that the supply of homes has not been boosted sufficiently to bring housing delivery anywhere close to where it requires it to be, and that the current planning policy framework is not yet creating the right conditions to enable the development industry to deliver the Government's objectives towards tackling housing unaffordability and homelessness. It is relevant and important that the achievement of the

<sup>1</sup> Consultation Document, para. 6

<sup>2</sup> NPPF, para. 60

Government's objectives are largely reliant on the development industry, and therefore it is imperative that the planning system works with, rather than against, the requirements of delivery agents.

For the reasons set out in the schedule accompanying this letter, Mac Mic Group are concerned that the proposed changes are highly unlikely to create the conditions necessary to deliver the significant further boost to the supply of homes that is necessary to raise it to anywhere near the level to which the Government aspires. On the contrary, in their view based on their long-established experience in the housing development sector, the more likely outcome is that they will curtail the amount and variety of land that can come forward where it is needed, the inevitable consequence of which will be an overall reduction in the annual rate of housing delivery contrary to the well founded intentions to significantly boost it. If the target is nowhere near being achieved under the current policy provisions, with the critical checks and balances to an unreliable plan-led system provided by the requirements to maintain, as a minimum, a five year supply of deliverable housing land, then the only way would seem to be down if these corrective mechanisms are diminished, which Mac Mic Group is concerned will be the consequence of the proposed changes.

The changes affecting the preparation of Local Plans have the potential to result in a significant reduction in the scale of need for which planned provision is made, and the amount of land that is allocated for housing growth. The combined effects of meeting needs 'only as far as possible', no requirement to revise Green Belt boundaries, no atypical densities, meeting the urban uplift only 'within' the relevant urban areas and not exporting needs, and the removal of the Duty to Cooperate, will likely all exert downward pressure on the level of needs for which planned provision is made.

As a particular example, in preparing its Local Plan to 2035, South Oxfordshire District Council was resistant to accepting unmet need from the neighbouring City of Oxford, to the extent that the authority was minded to withdraw its Plan from Examination. This culminated in a direction from the Secretary of State for Housing, Communities and Local Government requiring the authority to progress its Plan through to examination and adoption, in part due to concerns regarding housing pressures in the district since it was the 57<sup>th</sup> least affordable council area in England at the time, and having regard to the potential implications for the nationally important economic objectives for the Oxford-Cambridge arc. Under the proposed new policy provisions, it is unlikely that such intervention could be justified.

It is common ground that the plan-led system is not working. However, it seems unlikely to be fixed by getting poor plans in place more quickly. Coupled with the significant dilution of the checks and balances provided by the proposed changes to the five year housing land supply and housing delivery test provisions, this is likely to lead to a further reduction in the amount and variety of land that can come forward where it is needed.

A real world example in which Mactaggart and Mickel have been actively involved over the past decade serves to illustrate their concerns. In the district of Bath and North East Somerset development land is very constrained due to the Bristol-Bath Green Belt and heritage/landscape constraints. These effectively mean that the main settlement of Bath can accommodate only very limited development. Therefore, in the Bath and North East Somerset Core Strategy adopted in 2014, it was accepted that the only sustainable option

for meeting housing needs was through Green Belt releases at Keynsham and Whitchurch on the fringe of Bristol. Having found an initial strategy that did not include Green Belt releases to be unsound and suspended the Examination, the Inspector accepted the revised strategy that involved removing land from the Green Belt at Keynsham, some of which was allocated for housing and some safeguarded for possible future development if the need arose. As the Inspector acknowledged in his report, Keynsham is the most sustainable town in the District after Bath, and the A4 corridor between Bath and Bristol is a highly sustainable location<sup>3</sup>.

The land promoted by Mactaggart and Mickel that was removed from the Green Belt and allocated for housing in the Core Strategy is now well advanced in delivering homes, with reserved matters having been approved and development commencing within a year of outline planning permission having been granted. Outline planning permission for an additional 213 homes has recently been granted for the safeguarded land, the need for which was confirmed through its allocation in the recently adopted<sup>4</sup> Bath and North East Somerset Local Plan Partial Update.

Through the (now abandoned) West of England Joint Spatial Plan, and options published in their individual Local Plans, Bath and North East Somerset, together with the neighbouring West of England Authorities around Bristol and Bath (South Gloucestershire and North Somerset) had all canvassed significant releases of land from the Green Belt to accommodate sustainable growth strategies in their emerging Local Plans. Bristol has expanded within the limits of its boundaries and is tightly contained by Green Belt. The neighbouring local authorities considered identifying sites to meet Bristol's unmet need when required to do so through an overarching strategic framework under a duty to cooperate, but which failed to progress. However, removal of the requirement to reach agreement on how much to provide has resulted in a collapse of joint working.

The same collapse in collaborative working has been experienced through the Greater Exeter Strategic Plan. Similarly to Bristol, Exeter has substantially developed within its capacity and is already reliant on urban extensions and a new settlement at Cranbrook in the neighbouring authorities of Teignbridge and East Devon respectively, to meet its needs. In circumstances such as these where urban areas are at their limits, the uplift for urban areas will be unimplementable since the capacity is not available within them, and there will no longer be a duty on neighbouring authorities to accommodate those needs.

As Mac Mic Group are sure the Government is aware and understands, much opposition to development in Green Belts is emotive, and frequently unfounded, since there are sites within the designations that may often be more sustainable than those located elsewhere, and can be developed without harm to the purposes and integrity of the designations. In this regard, Mac Mic Group also controls land to the east of Backwell, in North Somerset. The site, which is in the Green Belt and a short distance to the east of Bristol, had been proposed for allocation in the Council's Preferred Options Local Plan published pursuant to Regulation 18 given its assessment as a sustainable location for development. This site would contribute significantly to meeting both local needs, and those of Bristol which cannot be met within its boundaries. However, Council Members have previously raised non-specific concerns regarding the principle of Green

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<sup>3</sup> Bath and North East Somerset Core Strategy, Inspector's Report, June 2014, para. 205

<sup>4</sup> January 2023

Belt release notwithstanding the clear sustainability benefits that targeted release would have. In the light of the proposed changes to the NPPF, North Somerset Council has paused further work on their Local Plan to review their strategy, including the proposed Green Belt releases and, in consequence, the capacity of the district to meet its local housing needs in full.

Therefore, the proposed changes to the NPPF will potentially result in local authorities in the greater Bristol area, undershooting their future needs by a considerable margin if release of land from the Green Belt is no longer required in order to meet needs. The only alternative is a reversion to a strategy of directing growth to the smaller towns, with poor public transport infrastructure, beyond the Green Belt, and which was declared unsustainable more than two decades ago. In the context of declared climate emergencies, that would not appear to be a sound strategy, but with removal of the need to demonstrate that it is justified, it is one that could be countenanced.

The HBF reports that 47 local authorities have now paused or reduced their plan-making activities since the draft NPPF changes were published in December 2022<sup>5</sup>. This confirms the effects of the proposed changes and transitional arrangements. In many local planning authorities, plan-making has been delayed to review the extent to which housing needs can be met and to benefit from the transitional arrangements requiring demonstration of a reduced supply of deliverable housing land. Some that were previously planning, and able, to meet their local needs, are now reconsidering their position in the context of the revised national policy provisions. Clearly underpinning the rationale in most, if not all, of these authorities is the potential for reducing their housing requirements due to local opposition to new development should the proposed changes to the NPPF and LURB come into effect.

The proposed changes to the provisions relating to the five year supply of deliverable housing land and the housing delivery test can be intended for one purpose only, and that is to reduce the extent to which they can be deployed to justify bringing forward land outside the scope of the Development Plan. Whilst Mac Mic Group supports the plan-led system and affords priority to working collaboratively with local authorities to discharge it effectively, if the proposed revised arrangements relating to Local Plans operate in a contrary direction than intended and suppress the supply of deliverable housing land, these additional changes are likely to compound the effects of the undershoot of housing provision to meet local needs that is the likely outcome of the proposed changes relating to Plan preparation.

Through the consultation documents, the Government raises challenges with the development industry and apports some blame for under-delivery of homes. Whilst some criticism may be due, in order to operate effectively the industry needs to transact land and house sales, and which is affected by a range of circumstances beyond the reach of the planning system, including macro-economic circumstances and fiscal policy. Therefore to imply that the failings of the current planning system are a result of irresponsible behaviour on the part of the industry, is simplistic, unhelpful and inflammatory, particularly given the acknowledgement that the 'vast majority' of developers and landowners follow the rules<sup>6</sup>. This also completely ignores the considerable and numerous delays experienced by development projects across the country that are the result of under-resourcing in local authority planning departments.

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<sup>5</sup> HBF reported in The Guardian, 27 February 2023

<sup>6</sup> Consultation Document, para. 19

Deliverability of a site is already taken into consideration where a proposal is not in accordance with the development plan and is justified on the basis that it will contribute to alleviating a shortfall in housing land supply. It therefore does not require specific policy provision. There is little acknowledgement in the consultation documents of the complicated interrelationship between factors that can profoundly influence deliverability within a very short space of time. The events of recent years provide a wealth of examples, including the property market shock delivered by the unexpected referendum result on Brexit, followed closely by a global pandemic and war in Ukraine which has had an unprecedented impact on inflation and with consequential sharp rises in interest rates from an historically low base. Construction costs have risen exponentially simultaneously with disposable incomes trending steeply downwards, which has impacted sharply and significantly on both viability and market confidence. Many of these changes have occurred within the life-span of planning permissions that were granted under very different circumstances.

Compounding the concerns arising from the current economic circumstances are additional and new challenges for the development industry going forward. These include new legislation relating to Biodiversity Net Gain and nutrient and water neutrality, which add very substantially to the complexities, and not least costs, of delivering a site, as well as the uncertainties of deliverability.

As an example, Mac Mic Group also has a scheme for 295 new homes and a new football club in Chard in South Somerset district, for which the Council's Planning Committee has resolved to grant planning permission. However, the planning permission cannot be issued due to an ongoing nutrient neutrality issue affecting the Somerset Levels and Moors SPA, as well as many other areas, currently holding up applications for thousands of new homes in the planning system. To date, it is felt there has been little genuine interest or activity from the Government to help resolve this ongoing issue, which has caused new development in many areas to stall. This issue, which arose suddenly and without forewarning and still lacks any credible or viable long-term solution, illustrates how constraints beyond the control of the development industry can frustrate the delivery of new homes. The HBF calculates that these constraints have resulted in 120,000 new homes being put on hold across the country, with a further 41,000 at risk every year if it remains unresolved. That is a substantial proportion of the annual total contained in Government's manifesto commitment.

In addition to the factors affecting development viability and confidence, the aspirations and objectives of landowners also impact on the ability to transact and move sites forward. The propensity to do so is equally affected by changing fiscal circumstances, including expectations of value and taxation.

It is imperative to understand and take account of these extraneous factors that can impact very significantly on the deliverability of planning permissions, rather than to assume that any delays in implementing a planning permission is a consequence of so-called 'land-banking'. Given the reliance placed on the development industry to deliver the planned provisions for growth contained in development plans, it is critical that all parties to the process, including Central Government, local planning authorities and the development industry, work collaboratively towards the common goal of ensuring that housing needs are met and economic growth supported in a sustainable way.



Considered overall, Mac Mic Group is extremely concerned that the proposed changes to the NPPF shift the focus away from delivery, and towards plan-making as an end in itself, with a number of proposed changes that are only likely to allow, and encourage, local authorities to intentionally, and without reasoned justification, reduce housing requirements within their Local Plans. The inevitable, and unfortunate, consequence will be reduced housing delivery and leading to ever increasing unaffordability and homelessness, as well as reduced economic growth at a time when the UK's economic performance is already virtually stagnant. That will be reflected in delivery falling even further behind the Government's manifesto commitment of 300,000 homes per annum, which still requires a significant boost in the supply of homes, and *ipso facto*, developable housing land, not a reduction. The amount and variety of land than can come forward where it is needed is already well short of what is required to meet the Government's target. It therefore seems counter-intuitive to be canvassing measures that are intended to, and will, inevitably, constrain it further.

We trust that you will give these submissions your most careful attention, and would reiterate that Mac Mic Group would be pleased to engage further with the Department on these matters if they can bring their experience to bear to assist with ensuring that the proposed changes do not act in a contrary manner to the Government's commitment to delivering the homes that the country needs, and the restoration of economic growth, through development that is sustainable.

Yours faithfully

A handwritten signature in black ink, appearing to read 'T S Roche', is located below the 'Yours faithfully' text.

**Dr Thomas S Roche**

BA (Hons) PhD BTP (Dist) MRTPI

**Director**

Enc