



Levelling-up and Regeneration Bill: reforms to national planning policy

CIEH response to consultation on proposed reforms to the national planning policy framework to DLUHC

2nd March 2023

About the Chartered Institute of Environmental Health (CIEH)

CIEH is the professional voice for environmental health representing over 7,000 members working in the public, private and third sectors, in 52 countries around the world. It ensures the highest standards of professional competence in its members, in the belief that through environmental health action people's health can be improved.

Environmental health has an important and unique contribution to make to improving public health and reducing health inequalities. CIEH campaigns to ensure that government policy addresses the needs of communities and business in achieving and maintaining improvements to health and health protection.

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Key points:

- CIEH are concerned that there is a lack of clarity as to how local authorities are meant to implement these proposals.
- We feel that insufficient consideration has been afforded to any unintended consequences of potentially reducing barriers for development in densely populated areas where there are planning constraints to overcome such as contaminated land, air quality and noise pollution which have deleterious effects on health.
- CIEH are concerned that the aims of these reforms proposals are to ensure the highest number of houses are built as quickly and as cheaply as possible, without sufficient standards being in place to ensure that the occupants are protected from environmental stressors.
- There is insufficient clarity as to how planning constraints, such as contaminated land, air quality, or noise pollution, are to be mitigated in a cost-effective manner to ensure any housing remains affordable.
- We are concerned however that too much weight and emphasis is given to the visual appearance of development, and this may give rise to unintended adverse consequences for health and quality of life.
- CIEH feel that the ambitious to undertake a carbon impact assessment that would incorporate “all measurable carbon demand created from plan-making and planning decisions” is an impossible feat and an unrealistic expectation.
- CIEH support policies that increase the uptake of renewable energy and reduce our dependence on the use of fossil fuels. However, we are concerned that the proposals do not go far enough to secure a significant increase in the development of onshore windfarms.
- CIEH support the proposal to simplify the process of installing measures to improve the energy performance of properties, including through the installation of fabric efficiency measures and heat pumps and other low carbon technologies like solar panels.
- CIEH believe that the government could go further in national policy by providing better funding for environmental regulators such as local authority environmental health teams and the Environment Agency to ensure that resources are adequate to support development of brownfield land in cities and town centres.

14. What, if any, additional policy or guidance could the department provide which could help support authorities plan for more homes in urban areas where the uplift applies?

CIEH are currently of the understanding that we do not believe the uplift will apply outside of heavily built-up urban areas. While additional policy and guidance could help support local authorities operating in such areas, CIEH would seek to highlight that the number of constraints that must be overcome to encourage the building of housing in these areas increases considerably. We would like to see greater clarity provided as to how local authorities are to deal with such constraints, whether that be issues relating to contaminated land, or whether that is air quality or noise pollution mitigation.

CIEH are concerned that, given that the primary need in such areas is to build more affordable social housing, given the number of constraints that must be mitigated will increase considerably with respect to developing brownfield sites, so too will the planning and development costs associated with building these houses, thus making such housing unaffordable.

We would urge government to consider the knock-on impact of building more homes in such areas which are already densely populated and heavily built up, for example on local air quality, noise guidance etc. As far as what policy and guidance the department could provide for local authorities operating in such areas, we would suggest that greater clarity must be provided for, and greater consideration must be given to, issues such as adequate ventilation and acoustic design to ensure that houses built in dense urban areas factor in these key considerations. The correlation between air pollution and noise pollution and health is clear.

Therefore, we are concerned that an unintended consequence of these reforms is that vulnerable people seeking access to affordable homes, will resort to moving to built-up areas, living in homes which do not cater for or mitigate against noise or air pollution, thus exacerbating the health impacts of these issues. CIEH remain ready and willing to engage with the department as a key stakeholder in supporting such efforts.

Finally, CIEH would like to see greater clarity provided to local authorities on how to manage land-use conflicts when they arise.

Overall, we at the CIEH are of the view that there is insufficient clarity being afforded to guide local authorities with respect to how these plans should be implemented in practice, which will ultimately lead to wildly disparate decisions being taken across various local authorities.

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?

We refer you to answer 14 as providing substantively the same responses in that good guidance must be provided and clear expectations set for planners. We are concerned that the aims of these reforms proposals are to ensure the highest number of houses are built as quickly and as cheaply as possible, without sufficient consideration to the protection of living conditions for the future occupants. Such a focus does not provide clarity as to how planning constraints, such as contaminated land, air quality,

or noise pollution, are to be mitigated in a cost-effective manner to ensure any housing remains affordable. Nor do these proposals provide clarity to local authorities as to how to manage land-use conflicts effectively. Poor housing design at the planning stage which does not promote passive ventilation while managing noise pollution can have a considerably deleterious effect on the health and wellbeing of occupants. Without clear and consistent guidance to local authorities, these proposals risk being a 'race to the bottom' with respect to reducing standards for the purpose of building high numbers of low-standard housing.

34. Do you agree to the proposed changes to the title of Chapter 12, existing paragraphs 84a and 124c to include the word 'beautiful' when referring to 'well-designed places', to further encourage well-designed and beautiful development?

We agree with the proposed changes to Chapters 8 and 12 to encourage beautiful design and development. We are concerned however that too much weight and emphasis is given to the visual appearance of development, and this may give rise to unintended adverse consequences for health and quality of life. For example, will the emphasis on beauty weigh against design aspects that will reduce solar gain such as permanent shading, when we should be encouraging good passive design to prevent overheating.

We are particularly concerned that the current NPPF policies do not go far enough to prevent poor standards of design that are prevalent in current development proposals.

Chapter 8 places emphasis on places and buildings that enable and support healthy lifestyles- for example through the provision of access to green spaces and sports facilities. Chapter 8 should be revised to include clear policies which promote good design of buildings and development to support health and quality of life.

In addition, new guidance should be developed to encourage holistic design approaches for health and quality of life and Chapters 8 and 12 should be modified accordingly.

We are concerned about the increasing use of mechanical ventilation and cooling in designs and that buildings are being designed too much to meet codes without placing proper weight on how buildings are used by the occupants and how they are likely to be maintained. Buildings should be naturally ventilated as far as possible and the NPPF should be amended to include a clear preference in favour of natural ventilation and passive design. Mechanical ventilation and cooling should represent methods of last resort. Current guidance is too binary in that it allows mechanical ventilation to be used if passive design cannot meet current codes and building regulation standards. This approach should be challenged to encourage passive designs to be used as far as possible and to allow for mechanical ventilation and cooling to supplement and augment natural and passive designs. Mechanical ventilation and cooling should not be allowed as an alternative to passive design measures.

We would commend the approach enshrined in the CIEH, IOA and the ANC's Professional Practice Guidance for Planning and Noise which advocates a holistic approach to design and for the occupants of buildings to be able enjoy good standards of comfort indoors with open windows as far as possible.

https://www.cieh.org/media/1256/propg-document-1_planning-noise-policy-and-guidance.pdf

39. What method or measure could provide a proportionate and effective means of undertaking a carbon impact assessment that would incorporate all measurable carbon demand created from plan-making and planning decisions?

CIEH feel that the ambition to undertake a carbon impact assessment that would incorporate “all measurable carbon demand created from plan-making and planning decisions” is an impossible feat and an unrealistic expectation. Without incredibly clear guidance from central government, which is currently lacking, on how such a carbon impact assessment could possibly seek to achieve that goal, the only way this would be possible would be to produce a carbon-impact assessment during every stage of the planning process. This would result in a disproportionate increase in costs which would then ultimately be borne by the developer, who most likely would seek to pass these on to the purchaser, thus driving up house prices, rendering them unaffordable.

It is laudable to seek to measure the carbon impact of any housing development, and if utilised effectively in a standardised manner, could result in significantly improved construction and development practices. However, without a standardised process that can be rolled out to all local authorities, the responsibility for designing an all-encompassing carbon impact assessment would then fall upon local authorities, many of whom are already overworked and under resourced. Furthermore, such carbon-impact assessments may act as a further constraint for the development of affordable housing and could paralyse development of these properties.

Finally, as aforementioned, there is no clarity provided as to how local authorities are expected to mitigate conflicts which arise resulting from carbon-impact assessments in the planning process with the proposed aims of overcoming planning constraints such as repurposing contaminated land or dealing with issues around air quality or noise pollution. Without clear and consistent guidelines as to how such conflicts between competing objectives are to be managed, local authorities will be left to make up their own decisions based on their own objectives, resulting in a piecemeal implementation of these proposals.

Ultimately, while we at the CIEH applaud the need to create less carbon-demanding builds, and amenities that are less carbon intensive. However, for this to be enabled in any meaningful way, there needs to be significantly greater clarity, guidance, process, and outcomes provided. In the absence of such clear guidance, there will be considerable unintended consequences, which may act in contradiction of these desired goals.

43. Do you agree with the changes proposed to footnote 54 of the existing National Planning Policy Framework? Do you have any views on specific wording for new footnote 62?

CIEH support policies that increase the uptake of renewable energy and reduce our dependence on the use of fossil fuels. However, we are concerned that the proposals do not go far enough to secure a significant increase in the development of onshore windfarms. We ask that the Government set clear and quantifiable objectives for energy generating capacity from onshore windfarms with a clear and coherent strategy for how this is to be achieved.

The proposed changes to the NPPF are too vague and ambiguous and do not provide the certainty needed to achieve a significant increase in the energy generating capacity from onshore windfarms.

We agree that proposals for onshore windfarms should have community support. We also agree with proposals to maximise local community support by sharing the benefits associated with onshore windfarms and embedding social value into development proposals.

We welcome the inclusion of provisions to protect local communities from the adverse impacts of onshore windfarms but the expression “appropriately addressed” is too vague and not sufficiently clear.

Noise is a major concern of communities and a common cause for objecting to development proposals. We recommend therefore that the noise objectives set out in 5.11.9 and 5.11.10 of EN1 are also adopted from onshore windfarms, namely:

“The [planning authority] should not grant development consent unless it is satisfied that the proposals will meet the following aims:

- *avoid significant adverse impacts on health and quality of life from noise;*
- *mitigate and minimise other adverse impacts on health and quality of life from noise;*
- *and where possible, contribute to improvements to health and quality of life through the effective management and control of noise.*

When preparing the development consent order, the [planning authority] should consider including measurable requirements or specifying the mitigation measures to be put in place to ensure that noise levels do not exceed any limits specified in the development consent.”

In addition, the lack of clear and adequate guidance on noise from windfarms is hindering the consideration development proposals and represents a major impediment to the permitting of onshore windfarms. ETSU-R-97 is outdated and unfit for purpose. New guidance should be developed as a matter of urgency. Any new guidance should reflect the latest British Standards, guidance from the World Health Organisation and the latest scientific evidence on the adverse effects of noise from wind turbines.

We would also recommend that a high level of protection from visual effects is provided for onshore windfarms.

We recommend that the CIEH and the IOA are engaged fully in the process of updating the noise guidelines.

44. Do you agree with our proposed Paragraph 161 in the National Planning Policy Framework to give significant weight to proposals which allow the adaptation of existing buildings to improve their energy performance?

We agree with the proposals to increase flexibility and allow existing buildings to be adapted to improve energy performance. We are however concerned that a significant increase in the installation of heat pumps and micro-turbines will lead to an increase in noise nuisance unless the situation is not properly managed.

We suggest that the new paragraph 161 should be widened to include provisions to protect neighbours from the adverse impacts of noise.

We would also recommend that the current guidance does not provide adequate levels of protection and should be updated.

We would recommend that the advice notes jointly issued by the CIEH and IOA be properly considered as a reasonable approach for the adequate protection from adverse noise impacts –

<https://www.cieh.org/news/press-releases/2022/cieh-and-ioa-launch-new-heat-pump-briefing-notes/>

Furthermore, CIEH support the proposal to simplify the process of installing measures to improve the energy performance of properties, including through the installation of fabric efficiency measures and heat pumps and other low carbon technologies like solar panels. We support the inclusion of paragraph 161, we and encourage the NPPF to go further through enshrining a commitment and alignment to net zero throughout the document.

Current planning rules make it difficult for households to improve the energy efficiency performance of homes in conservation areas and listed buildings. We encourage this to be reformed as swiftly as possible to ensure that planning regulations act as an enabler for green growth. There are nearly 10,000 Conservation Areas in England providing heritage protection for over 10% of properties. The highest coverage areas are Isles of Scilly with 100% within conservation. Other high percentage areas are older heritage city centres such as Bath and London.

Studying data for more than half of the English housing stock, a recent study has shown that conservation area status in England may be responsible for up to 3.2 million tons of avoidable CO2 emissions annually. Properties in conservation areas have a notable 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 permitted development that only apply to properties by virtue of them being located inside a conservation area.

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 of domestic homes is not only in line with net-zero, but also is linked to reduced energy bills and improved health. For this reason, we believe that energy efficiency improvements and emissions reductions should be clearly identified as an example of public benefits. This should include removing the barrier of requiring planning permission for simple retrofit measures like double glazing and must also make it much easier to install low carbon technologies like heat pumps and solar panels.

48. Do you agree with the proposed transitional arrangements for supplementary planning documents? If no, what alternative arrangements would you propose?

CIEH wish to highlight that it is difficult to agree with the proposed transitional arrangement for supplementary planning documents if it is unclear what such documents are intended to cover. At

present, SPDs are not given the same weight of consideration as local plans, however, under these proposals, SPDs are intended to carry the same weight as policies contained within a local plan. CIEH would like for there to be greater clarity and detail provided as to what exactly will be covered within SPDs, and how any conflict between what is covered by an SPD and policies within local plans will be mitigated.

49. Do you agree with the suggested scope and principles for guiding National Development Management Policies?

CIEH wish to flag some concerns that much of decision making regarding local development will be taken more at a national level through the proposals outlined in National Development Management Policies, making local development plans much more 'light-touch'. While we acknowledge, and in some instances, welcome the fact that national policymaking will underpin much of the legislation with respect to local development, we are keen to ensure the need for any national standards be clear and standardised, promote policies which support Net Zero ambitions, and enable improved public and environmental health standards.

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?

CIEH believe that the government could go further in national policy by providing better funding for environmental regulators such as local authority environmental health teams and the Environment Agency to ensure that resources are adequate to support such development. We also believe that higher standards need to be provided to consultants engaged in supporting developers produce plans for brownfield sites to ensure that applications for such sites reach a significantly high threshold as to not overburden local authorities faced with reviewing inadequately prepared planning applications.

In support of these efforts, CIEH would welcome the introduction of a charging mechanism which passes the entirety of costs borne for reviewing additional planning applications to be borne entirely by the developer as this would incentivise better prepared initial planning applications in the first instance. Funds could then be ringfenced for local authority planning and environmental health teams to increase resource capacity.