

Consultation response form

This is the response form for the consultation on the draft revised National Planning Policy Framework. If you are responding by email or in writing, please reply using this questionnaire pro-forma, which should be read alongside the consultation document. The comment boxes will expand as you type. Required fields are indicated with an asterisk (*)

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Are the views expressed on this consultation your own personal views or an official response from an organisation you represent?*

Organisational response

If you are responding on behalf of an organisation, please select the option which best describes your organisation. *

Other (Please specify)

If you selected other, please state the type of organisation

Regulator

Please provide the name of the organisation (if applicable)

Equality and Human Rights Commission

Chapter 1: Introduction

Question 1

Do you have any comments on the text of Chapter 1?

In responding to the consultation we have set out in this section on chapter 1, the key thematic issues that we think need to be more robustly addressed in the document as a whole.

The Equalities and Human Rights Commission published on 11 May 2018 a comprehensive formal inquiry report 'Housing and Disabled People, Britain's Hidden Crisis'. The report details the housing needs of disabled people and how housing provision enables or restricts disabled people's right to independent living. Our findings and recommendations from this formal inquiry have informed much of our response to this consultation. As statutory inquiry, carried out under the Commission's unique statutory powers, the Government is required to have regard to our recommendations.

The inquiry report can be found at:

<https://www.equalityhumanrights.com/en/inquiries-and-investigations/inquiry-housing-disabled-people>

The Ministry of Housing, Communities and Local Government is subject to the Public Sector Equality Duty provisions, as set out in the Equality Act 2010. In order to meet the requirements of the Public Sector Equality Duty (PSED) the MHCLG needs to demonstrate how equalities issues were considered when making the proposals contained in this consultation, and how groups with different protected characteristics are likely to be impacted on in different ways. We note that there is limited evidence being given of due regard to equalities from MHCLG in discharging its obligations under the PSED. There are limited mentions of older people, gypsy and travellers and wheel chair access, but substantive consideration of these groups is largely absent. Our recommendations below and throughout the document, will make for a more robust approach to assessing the impact on these protected groups.

Our key recommendation is that 'accessible housing' should be considered as a key element to the planning framework in a parallel way to 'affordable housing'. As the Commission's inquiry found, disabled people are at risk of being excluded if the strategic plan does not address the need to deliver more accessible and adaptable housing. We return to this point throughout our consultation response. The underlying principle is that disabled people have a right to independent living. This is enshrined in Article 19 of the United Nations Convention of the Rights of People with Disabilities. The equal right of disabled people to live in the community with choices equal to others, and that effective and appropriate measures will be taken to facilitate disabled people's full enjoyment of this right, and their full inclusion and participation in the community. As our inquiry shows, accessible housing is a vital component to ensure that disabled people are able to realise their right to independent living.

A detailed definition of accessible housing is required, and explicit reference should be made to Part M of the building regulations and the optional categories 2 & 3. In addition it should include disabled access to the wider built environment. We

reference both these points in the glossary section.

The proposal to move from Local Plans to higher level Strategic Plans presents a risk if equalities and disability are not properly considered as part of developing a 'strategic' plan. The demographic of the UK is rapidly changing and there are now 13.3 million disabled people in the UK (ONS, 2017) which has risen from 11.9 million in 2014. The NPPF should set out how Strategic Plans should balance the anticipated increase in demand, along with the needs of other equalities groups and wider considerations.

Paragraph 62 lists a number of groups that may have specific housing needs. Our response to question 14 addresses this in more detail. The important point to note is that this list should clearly align with those groups who have a statutory protected characteristic. Disability and age overlap as most disabilities are not present at birth, and frailty is common at older ages. This reinforces the point above that there is a good case for treating the need for accessible housing akin to the need for affordable housing throughout the NPPF.

The way that planning interfaces with building regulations is not dealt with in the draft; specifically the issue of the optional categories 2 & 3 in part M of the building regulations. We have in our inquiry recommended that category 2 becomes the minimum default standard, as it has been done successfully in London for the last 10 years. All the cost benefit studies we reviewed as part of our inquiry identified considerable savings in care and health cost by providing a much better standard of accessibility and adaptability. This step would greatly simplify the planning process for housing by creating a level playing field. Our inquiry found that the current optional regulations causes considerable delay and confusion as local authorities and developers challenge each other in an adversarial system.

In the absence of a change to the building regulations, the steps that local authorities need to go through to demonstrate the viability schemes should be greatly simplified. Local authorities reported to us during our inquiry, that they feel the current system is heavily weighted against them. This was supported by a comprehensive survey we carried out as part of our inquiry, which identified that only 45% of local authorities have set targets for the higher optional standards. The NPPF should enable Local Authorities to set targets they think are realistic, without having to justify viability at a granular level that is currently required with the Local Plans and therefore leaves them open to challenge from developers.

The draft NPPF highlights that there is a valuable role that could be played by neighbourhood plans in filling the gap that local plans would have covered by giving communities the opportunity to plan in greater detail. We are aware in information presented by HMCLG that the prevalence of Neighbourhood Plans is much greater in the affluent areas with a particular concentration in the South. It would therefore be likely that it was the most deprived areas who would lack detailed plans and risk further marginalising the most vulnerable. As far as we are aware, no analysis has been done on Neighbourhood Plans and to what extent they consider equalities. We recommend that a review is conducted of both the practices and guidance.

The draft does not set out how strategic plans will be tested for soundness. Our

assumption is that the Planning Inspectorate will continue to have a similar role as it has had in assessing Local Plans. As a public body they are also subject the Public Sector Equality Duties, and therefore have duties to ensure the equalities issues are considered. We recently obtained a legal opinion on the current guidance to the Planning Inspectorate issued by HMCLG and identified a number of issues which will we be sharing with the department. A specific point to highlight is that we believe it is incorrect when it says “The inspectorate has no discretion to take any equality impacts into account as part of some overarching balancing act when deciding whether to recommend adaption.” To be effective clear oversight and governance of Strategic Plans is necessary and should include regard being given to whether the plan has given sufficient consideration to disabled and other equality groups. In Question 2 below, we set how identifying disability as part of the overarching objectives would assist the Planning Inspectorate in discharging their responsibilities.

The draft does not set out clear steps for how Strategic Plans should be consulted on. Local Plans currently allow for robust and effective public consultation. If consultation going forward is only on higher level strategic document, meaningful consultation would be much harder to achieve. The findings from our inquiry found that where disabled people are meaningfully engaged plans, policies and practices are greatly improved and expensive mistakes avoided. We are due to publish a number of tool kits and resources in June 2018 for both local authorities and disabled people. One key aim is to assist local authorities in sharing best practices on consultation. This is being done in consultation with the LGA and we recommend that this resource is signposted to by the NPPF.

The above principles align with the recommendations from the Women and Equalities Committee, and the Housing, Communities and Local Government Committee inquiries. They both suggest that planning policy would benefit from standalone sections on disability and age, to make it clear that this needs to be thoroughly considered. In addition planning policy needs to align with government plans on welfare and disability and seeking to remove barriers to employment. There is a strong association between living in an accessible home and employment

Chapter 2: Achieving sustainable development

Question 2

Do you agree with the changes to the sustainable development objectives and the presumption in favour of sustainable development?

No

Please enter your comments here

Following on from our response to question 1, amending this section would give a clear steer and set out up front how equalities considerations should be embedded within the strategic plan, with particular attention given to disability.

It is not just the “services and open spaces” that need to be accessible. Disabled people need to be viewed as consumers and workers as well as having their specific housing needs assessed. It should also be made clear that the needs of present and future generations include the needs of disabled people.

To achieve this, paragraph 8 should either integrate disability into the social, economic and environmental objectives or have it as a standalone fourth objective. We would recommend a standalone fourth objective.

The aim is that it should be identified upfront as a powerful lever in identifying the responsibilities of Planning Inspectorate and local government. This goes beyond housing and looking at the spatial environment and issues of accessibility e.g. transport. Considering disability (and other protected characteristics) thoroughly will also help Local Authorities meet their obligations under the Public Sector Equality Duty.

Question 3

Do you agree that the core principles section should be deleted, given its content has been retained and moved to other appropriate parts of the Framework?

No

Please enter your comments here

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Question 4

Do you have any other comments on the text of Chapter 2, including the approach to providing additional certainty for neighbourhood plans in some circumstances?

The Commission considers that accessibility should be a key pillar of the NPPF

Therefore Para 11 should be altered so that the presumption in favour of sustainable development should be altered to include accessibility.

Chapter 3: Plan-making

Question 5

Do you agree with the further changes proposed to the tests of soundness, and to the other changes of policy in this chapter that have not already been consulted on?

No

Please enter your comments here

[Click here to enter text.](#)

Question 6

Do you have any other comments on the text of chapter 3?

The Commission recommends that “accessibility” should be considered in a parallel way to “affordability”.

The term accessibility is used inconsistently in the draft. We recommend that a definition is used that includes housing and the wider built environment. See glossary section for further details.

We recommend that the following amendments are made:

Para 16e needs to make clear that “accessible” here takes account of relevant needs of disabled people in the production of accessible versions of relevant texts as part of obligations to provide reasonable adjustments to disabled people.

Para 20e should add “and accessible housing” as the first point of creating a parallel duty.

Para 27 should make clear that “local communities” needs to include local disabled people’s groups and similar.

Para 34 add “and accessible housing” after “affordable housing”

Chapter 4: Decision-making

Question 7

The revised draft Framework expects all viability assessments to be made publicly available. Are there any circumstances where this would be problematic?

Not sure

Please enter your comments here

The comments below reference our proposed definition of accessibility in the glossary and the need to continuously refer to “accessible housing” in a parallel way

to “affordable housing”

We recommend that in paragraph 42 add “and accessible”

Question 8

Would it be helpful for national planning guidance to go further and set out the circumstances in which viability assessment to accompany planning applications would be acceptable?

Please select an item from this drop down menu

Please enter your comments here:

Question 9

What would be the benefits of going further and mandating the use of review mechanisms to capture increases in the value of a large or multi-phased development?

Please enter your comments below

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Question 10

Do you have any comments on the text of Chapter 4?

Paragraph 42 Disabled people are not a statutory group to consult with, but they should be listed here to ensure they are consulted with at pre-application stage. This is important in strengthening the voice of disabled people and demonstrating how authorities are discharging their obligations under the PSED.

Our inquiry reported that local authorities’ practice on consultation with disabled people is weak and that this, coupled with reductions in funding for disabled people’s organisations, makes it difficult to contribute to formal consultation processes.

We recommended governments at national and local level need to be much more effective in engaging disabled people at both at the strategic and operational levels to meaningfully reflect their input, in a continual cycle of improvement.

Chapter 5: Delivering a wide choice of high quality homes

Question 11

What are your views on the most appropriate combination of policy requirements to ensure that a suitable proportion of land for homes comes forward as small or medium sized sites?

Please enter your comments here

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Question 12

Do you agree with the application of the presumption in favour of sustainable development where delivery is below 75% of the housing required from 2020?

Please select an item from this drop down menu

Please enter your comments here

[Click here to enter text.](#)

Question 13

Do you agree with the new policy on exception sites for entry-level homes?

Please select an item from this drop down menu

Please enter your comments here

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Question 14

Do you have any other comments on the text of Chapter 5?

The comments below reference our proposed definition of accessibility in the glossary and set out why we recommend “accessible housing” should be considered in a parralle way to “affordable housing” throughout the NPPF.

Note the justification for dealing specifically with “accessible housing” includes the fact that disability is a statutory protected characteristic in relation to which many people will require specific housing. Houses suitable for older people is also primarily relates to disability related issues and many will choose to live in “general needs housing” in mixed for communities rather than intensive and often segregated supported housing options.

In addition an analysis of different sectors would be of significance when meeting the needs of disabled people. The English Housing Survey identified the private rented sector is particularly problematic for disabled people with 1 in 3 saying their housing does not meet their requirements. This compares to 1 in 5 for social housing and 1 in 7 in owner occupied.

Para 62 add “or accessible housing” after “affordable housing” and remove “people with disabilities”.

Para 63 should deal with accessible housing in a separate, equivalent, bespoke paragraph.

Para 65 should deal with a similar quantified requirement for accessible housing in a parallel paragraph.

Para 72 should include that “accessible housing” would also apply in relation to exception sites.

Chapter 6: Building a strong, competitive economy

Question 15

Do you agree with the policy changes on supporting business growth and productivity, including the approach to accommodating local business and community needs in rural areas?

Please select an item from this drop down menu

Please enter your comments here

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Question 16

Do you have any other comments on the text of chapter 6?

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Chapter 7: Ensuring the vitality of town centres

Question 17

Do you agree with the policy changes on planning for identified retail needs and considering planning applications for town centre uses?

Please select an item from this drop down menu

Please enter your comments here

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Question 18

Do you have any other comments on the text of Chapter 7?

[Click here to enter text.](#)

Chapter 8: Promoting healthy and safe communities

Question 19

Do you have any comments on the new policies in Chapter 8 that have not already been consulted on?

[Click here to enter text.](#)

Question 20

Do you have any other comments on the text of Chapter 8?

Para 92 currently puts “accessible and safe” together to then talks about crime and safety. They are separate things, and the question of accessibility should be dealt with separately from the question of safety.

Para 93 Should emphasise that “community needs” also includes the particular needs of disabled people.

Chapter 9: Promoting sustainable transport

Question 21

Do you agree with the changes to the transport chapter that point to the way that all aspects of transport should be considered, both in planning for transport and assessing transport impacts?

Please select an item from this drop down menu

Please enter your comments here

[Click here to enter text.](#)

Question 22

Do you agree with the policy change that recognises the importance of general aviation facilities?

Please select an item from this drop down menu

Please enter your comments here

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Question 23

Do you have any other comments on the text of Chapter 9?

Para 103 “the mobility needs of disabled people” is also something that should be integral to the design of schemes.

Para 106 parking standards should also take into account the needs of disabled people

Para 108b should make clear that this also includes disabled people

Chapter 10: Supporting high quality communications

Question 24

Do you have any comments on the text of Chapter 10?

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Chapter 11: Making effective use of land

Question 25

Do you agree with the proposed approaches to under-utilised land, reallocating land for other uses and making it easier to convert land which is in existing use?

Please select an item from this drop down menu

Please enter your comments here

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Question 26

Do you agree with the proposed approach to employing minimum density standards where there is a shortage of land for meeting identified housing needs?

Please select an item from this drop down menu

Please enter your comments here

[Click here to enter text.](#)

Question 27

Do you have any other comments on the text of Chapter 11?

[Click here to enter text.](#)

Chapter 12 : Achieving well-designed places

Question 28

Do you have any comments on the changes of policy in Chapter 12 that have not already been consulted on?

[Click here to enter text.](#)

Question 29

Do you have any other comments on the text of Chapter 12?

Para 126f needs to make clear that “accessible” includes accessible for disabled people

Chapter 13: Protecting the Green Belt

Question 30

Do you agree with the proposed changes to enable greater use of brownfield land for housing in the Green Belt, and to provide for the other forms of development that are ‘not inappropriate’ in the Green Belt?

Please select an item from this drop down menu

Please enter your comments here

[Click here to enter text.](#)

Question 31

Do you have any other comments on the text of Chapter 13?

Para 144f add in “accessible housing” as a separate category

Chapter 14: Meeting the challenge of climate change, flooding and coastal change

Question 32

Do you have any comments on the text of Chapter 14?

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Question 33

Does paragraph 149b need any further amendment to reflect the ambitions in the Clean Growth Strategy to reduce emissions from building?

Please select an item from this drop down menu

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Chapter 15: Conserving and enhancing the natural environment

Question 34

Do you agree with the approach to clarifying and strengthening protection for areas of particular environmental importance in the context of the 25 Year Environment Plan and national infrastructure requirements, including the level of protection for ancient woodland and aged or veteran trees?

Please select an item from this drop down menu

Please enter your comments here

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Question 35

Do you have any other comments on the text of Chapter 15?

Click here to enter text.

Chapter 16: Conserving and enhancing the historic environment

Question 36

Do you have any comments on the text of Chapter 16?

Click here to enter text.

Chapter 17: Facilitating the sustainable use of minerals

Question 37

Do you have any comments on the changes of policy in Chapter 17, or on any other aspects of the text in this chapter?

[Click here to enter text.](#)

Question 38

Do you think that planning policy in minerals would be better contained in a separate document?

Please select an item from this drop down menu

Please enter your comments here

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Question 39

Do you have any views on the utility of national and sub-national guidelines on future aggregates provision?

Please select an item from this drop down menu

Please enter your comments here

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Transitional arrangements and consequential changes

Question 40

Do you agree with the proposed transitional arrangements?

Please select an item from this drop down menu

Please enter your comments here

[Click here to enter text.](#)

Question 41

Do you think that any changes should be made to the Planning Policy for Traveller Sites as a result of the proposed changes to the Framework set out in the consultation document? If so, what changes should be made?

Please select an item from this drop down menu

Please enter your comments here

[Click here to enter text.](#)

Question 42

Do you think that any changes should be made to the Planning Policy for Waste as a result of the proposed changes to the Framework set out in the consultation document? If so, what changes should be made?

Please select an item from this drop down menu

Please enter your comments here

[Click here to enter text.](#)

Glossary

Question 43

Do you have any comments on the glossary?

The glossary definition of people with disabilities should recognise that different impairments have different impacts in planning (including housing and transport) terms.

As such we recommend the following ammendments.

Disabled person: according to the Equality Act 2010, a person is disabled if they have an impairment that has a substantial and long-term adverse effect on their ability to carry out normal day-to-day activities. This includes both physical and non physical impairments.

Accessible housing: housing that has physical features that enable the occupier to move around it safely and easily and have full use of its facilities. This can include ramped entrances, level-access showers, stair lifts, spacious bedrooms, widened corridors and doorways, low-level sinks, sockets and switches. Accessible housing is particularly advantageous to disabled people with physical impairments.

Accessibility should also be considered the context of the wider built environment. This includes access to the immediate proximity of a house and as well as shops, transport, services and amenities should form part of the NPPF considerations.

Specific reference should be made to the accessible and adaptable housing standards. Our research and feedback from experts in the field has identified that their remains considerable confusion across the sector. A proposed explanation is below.

All new housing, with some exceptions, needs to meet Part M4(1) of the Building Regulations, which were introduced in October 2015 and amended in March 2016. While this represents a small improvement on previous building standards, it does not include an accessible downstairs toilet, and does not make provision for houses to be easily adapted to include other accessible features, should these be needed at

a later date.

The optional Part M4(2) and Part M4 (3) provide a much better accessibility standard for new homes. Part M4(2) has 16 accessible or adaptable features, and is broadly equivalent to the Lifetime Homes Standards, which are a series of 16 design criteria that are intended to make homes more easily adaptable for lifetime use at minimal cost. Although they do not make housing fully accessible, these features enable most adaptations to be retro-fitted quickly and cheaply. This standard also tends to work better for everyone, as it allows for more space to move around, and for things like pushchairs and prams. Part M4(3) is the fully wheelchair-accessible standard, and includes space for a through-floor lift.