

## Introduction

The Housing White Paper was billed as a radical and ambitious set of proposals that would provide this Government's comprehensive solution to the chronic undersupply of housing in Britain. Given the current fiscal and political environment, it is probably not surprising that this is not what the Government has delivered. Instead, Sajid Javid has unveiled a package of proposals, statements of intent, consultations and re-announcements, which are likely to be of varying use.

Whilst the White Paper is not the radical shake up of the planning system it purports to be, aspects of the paper could have significant implications for retirement living sector. This briefing is intended to cut through the rhetoric and provide a concise guide to these relevant proposals and their implications.

A White Paper Consultation, on the main proposals put forward by the government, is currently open and closes on 2 May 2017

## A New Emphasis on Planning for All Ages

The most helpful provisions in the White Paper come in the very first chapter, in the form of a proposed amendment to the National Planning Policy Framework that would expressly require all local plans to include clear policies that address the provision of suitable housing for the elderly and how this is to be provided.

This would be supported by the provision of new national planning practice guidance explaining to local authorities precisely how their local development documents should meet the housing needs of older people.

The current lack of acknowledgment that alternative provision is needed is one of the biggest planning hurdles facing the sector. If this is done well, the new express policy support for the sector has the potential to be extremely helpful.

Unfortunately, this policy acknowledgement is the only real, tangible, measure put forward that directly addresses housing for older people. The incentives for down-sizing that were discussed in the media before the paper was published do not make an appearance; nor are there any meaningful reforms proposed to the problematic use classes system. Instead, a green paper is promised at some point in the future that will address issues around short term sheltered housing.

In addition, the government proposes to hold a "conversation" with stakeholders to develop new proposals for supporting the sector, although with little indication as to when the conversation will take place. I suspect that this is most likely to result in a further working group or a new consultation paper on retirement housing in the not too distant future.

In addition, the following initiatives were proposed. Whilst these are aimed at the housing market as a whole, they could also be of benefit to specialist providers:

- Requiring local authorities to have clear strategies in their plans to "maximise the use of suitable land" to clarify how much development can be accommodated. This will include amendments to promote increasing housing density on development sites, which are also to be included in the NPPF;
- Strengthening the duty on local authorities to plan to meet all of their identified housing need, unless the NPPF provides strong reasons for not doing so or the adverse impacts would significantly and demonstrably outweigh the benefits of doing so;
- Amending the NPPF to allow a local authority's five year housing land supply position to be assessed on an annual basis and then fixed for the next twelve months. The rationale for this appears to be two-fold; firstly, it should cut down on arguments about housing land supply at appeal, and secondly, it could be seen as a "quid pro quo" for adopting the standardised assessment methodology proposed in chapter 1;

- Requiring neighbourhood plans meet their share of local housing needs in full; although the current protections set out in “that” Written Ministerial Statement from Gavin Barwell (which allow two years under-delivery) will remain in some form, the intention is that they will be scaled back if there is persistent under-delivery of housing in the local authority area;
- Increasing the weight to be given to the value of using brownfield land for residential development in the planning balance; and
- Strengthening the wording of the “Presumption of Sustainable Development” at the heart of the NPPF to reflect the new emphasis on maximising housing delivery. The exact wording of the new presumption is set out below:

At the heart of the National Planning Policy Framework is a **presumption in favour of sustainable development**.

For **plan-making** this means that:

- local planning authorities should positively seek opportunities to meet the development needs of their area, as well as any needs that genuinely cannot be met within neighbouring authorities, through a clear strategy to maximise the use of suitable land;
- their plans should accommodate objectively assessed needs, with sufficient flexibility to adapt to rapid change, unless:
  - specific policies in this Framework provide a strong reason for development to be restricted;<sup>1</sup> or
  - any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

For **decision-taking**<sup>2</sup> this means:

- approving development proposals that accord with the development plan without delay; and
- where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:
  - specific policies in this Framework indicate development should be restricted;<sup>1</sup> or
  - any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

1 Policies relating to sites protected under the Birds and Habitats Directives (see paragraph 119) and/or designated as Sites of Special Scientific Interest; land designated as Green Belt, Local Green Space, an Area of Outstanding Natural Beauty, Heritage Coast or within a National Park (or the Broads Authority); Ancient Woodland and aged or veteran trees; designated heritage assets (and other heritage assets of archaeological interest referred to in paragraph 139); and locations at risk of flooding or coastal erosion.

2 Unless material considerations indicate otherwise

## Changes to fees and the resourcing of Council Planning Departments

In a bid to deal with the under-resourcing of local authority planning departments, planning application fees are to be increased significantly. The fees will be nationally set, but local authorities may be able to access larger increases (of up to 40%) if they commit to spending the additional funds on their planning departments and are delivering enough houses to meet their objectively assessed needs. It will be interesting to see how the government intends to monitor this.

A consultation is also promised on introducing fees for planning appeals, although the intention appears to be that the fees would be refundable if the appeal was successful.

## Proposals to speed up housing delivery more generally

The White Paper contains promises of initiatives to boost provision of utilities to sites, improve broadband connectivity, and generally reduce delays in getting sites serviced, but there is very little detail available on these.

Similarly further consultations are proposed for the reform of CIL, which has been found to be “not as fast, simple, certain or transparent as originally intended”. The CIL Review Report proposes root and branch reform of the levy, and whilst the White Paper does not go this far (it will be a big, complicated and hideously fiddly job for whoever is tasked with it), it is at least encouraging to see the government acknowledge that CIL in its current form is not fit for purpose.

A streamlined approach to obtaining licences for protected species is to be rolled out, following a successful pilot of the system in Woking Borough Council, which is likely to be welcomed by developers

The government is proposing to amend the NPPF to enable local authorities to consider how realistic the development of a particular site actually is – particularly if previous planning consents for the site have not been implemented.

There is a suggestion that the applicant's track record of delivering housing should become a relevant planning consideration for committees – at least in relation to larger house-builders.

The government is also consulting on empowering local authorities to reduce the timescales within which a planning permission must be implemented to two years (down from three). It is proposed that this should only be allowed where a shorter timescale would not hinder the viability or delivery of a scheme, but given the length of time that it can take to deal with reserved matters, pre-commencement conditions and potential legal challenges, this is likely to be a highly controversial and not very helpful proposal.

A simplified procedure for Completion Notices (which can be served by local authorities to compel the completion of a development) is being considered, with a proposal that planning permission could be removed from parts of stalled sites. This is likely to cause issues for funders of development projects, who are unlikely to want to lend on developments if the planning consent is capable of being removed part way through the build. It is also difficult to see how revoking the unused part of an extant planning consent will increase or speed up housing delivery.

A further consultation on CPO powers is promised, with a view to making it easier for local authorities to use.

In a “punishment” mechanism aimed at local authorities, a new “housing delivery test” is proposed for local councils, which will identify local authorities that are under-delivering and include specific actions to be taken to increase housing levels. The “punishments” for under-delivery are incremental and increase with severity over time (see table below).

November 2017	November 2018	November 2019	November 2020
Delivery below 95% of annual housing need to result in production of action plan to improve build out rates.	Delivery below 25% of annual housing need – relevant local plan policies automatically to be deemed out of date and NPPF presumption of sustainable development to apply.	Delivery below 45% of annual housing need – relevant local plan policies automatically to be deemed out of date and NPPF presumption of sustainable development to apply.	Delivery below 65% of annual housing need – relevant local plan policies automatically to be deemed out of date and NPPF presumption of sustainable development to apply.
Delivery below 85% of annual housing need to result in requirement to plan for 20% buffer on five year housing land supply			

## Conclusion

Despite some encouraging comments from Ministers in the run up to publication, the White Paper delivers remarkably little for the retirement living sector. Whilst the promise of specific policy support, at a national level, and additional planning guidance for local authorities is to be welcomed, the heavily trailed “incentives” for prospective downsizers have not materialised. Instead, we have been given promises of further “conversations” with stake-holders and a government green paper to be published in the “spring”.

The government have failed to take hold of this opportunity to address the particular difficulties that many general housing related planning policies cause for the retirement living sector – such as the relatively blunt distinction between the C2 (residential institutions) and C3 (dwellings) use class categories; attempts to apply affordable housing policies to retirement communities; or the difficulties caused by ill-thought out CIL policies which do not recognise the nuances and differences that separate different residential markets (i.e. PRS, Retirement products or general market housing).

The belated acknowledgement from central government that the retirement living sector forms part of the solution to the housing crisis is to be welcomed. It is just a shame that they omitted any specifics as to what form this solution might take.


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