



## **Advice produced by the Planning Inspectorate for use by its Inspectors**

### **NATIONAL PLANNING POLICY FRAMEWORK: CONSULTATION DRAFT** (revised 8 September 2011)

Paragraph 2 removed, former paragraph 3 (now 2) revised to simplify and ensure standing of NPPF as a consultation document is fully understood.

Annex B now takes account of (i) revised guidance on trajectory of LPA 5 year housing requirements and (ii) the proposed incorporation of planning policy on traveller sites into the final National Planning Policy Framework.

#### **Background**

1. DCLG has today issued the [consultation draft of the National Planning Policy Framework \(NPPF\)](#), together with its associated [consultation document](#), [Impact Assessment](#) and [media summary](#). The NPPF is intended to bring together Planning Policy Statements, Planning Policy Guidance Notes and some Circulars into a single consolidated document.

2. The draft NPPF is likely to be referred to by the parties in current appeal and development plan casework. It is a consultation document and, therefore, subject to potential amendment. It is capable of being a material consideration, although the weight to be given to it will be a matter for the decision maker in each particular case. The current Planning Policy Statements, Guidance notes and Circulars remain in place until cancelled.

#### **Action**

3. Inspectors are strongly advised to familiarise themselves with the draft NPPF and also with Part B of the Impact Assessment ('Changes to National Planning Policy'). [Annex B](#) sets out the policy changes noted in Part B of this note. When conducting casework you should have regard to the consultation draft guidance and to the general advice in [Annex A](#).

**Reference back to the parties**

The Planning Inspectorate's procedure for addressing the draft National Planning Policy Framework (NPPF) in current casework is as follows:

In all new casework that comes in as of the date of the draft NPPF publication, it can be assumed that the parties will address the draft NPPF, including advising on the weight they think it should attract and why. No requests will therefore be made by case officers for comments on the draft NPPF.

In all in-hand casework there is no requirement for caseworkers to proactively seek the parties' views on the materiality or weight to be attached to the draft NPPF.

On casework in-hand at the time of NPPF publication, parties' representations will either be contained in (i) statements / final comments, or (ii) separate correspondence submitted outside the time scales set down in the Rules. We shall not refuse to accept observations on the materiality or weight to be attached to the draft NPPF, either in final comments (bearing in mind that they might well represent a new matter not mentioned in the Grounds of Appeal or statements), nor shall we return correspondence (referring to the NPPF) for being out of time: they may well be material (notwithstanding that the Inspector can only attach limited weight). Where this happens, natural justice will require that other main parties' views will be sought on those comments (if at final comments stage or outside the prescribed timetable).

**Changes to national planning policy noted in NPPF Impact Assessment part B**

This annex highlights key policy changes in the single policy document. The text below is the text as it appears in Part B of the Impact Assessment ('Changes to National Planning Policy'), with the exception of the text in parts (v) & (vi) of paragraph 23, on Green Belts, which is taken from paragraphs 137 and 138 of the NPPF. Inspectors are strongly advised to familiarise themselves with the entirety of the draft NPPF and also with Part B of the Impact Assessment.

**i. Presumption in favour of sustainable development**

1. The presumption in favour of sustainable development (the 'presumption') is central to the policy approach in the Framework, as it sets the tone of the Government's overall stance and operates with and through the other policies in the document. Its purpose is to send a strong signal to all those involved in the planning process about the need to plan positively for appropriate new development; so that both plan-making and development management are proactive and driven by a search for opportunities to deliver sustainable development, rather than barriers.

2. It does this by placing increased emphasis on the importance of meeting development needs through plans; on the need to approve proposals quickly where they are in line with those plans; and on the role of the Framework as a basis for decisions where plans are not an adequate basis for deciding applications.

**ii. Removing office development from 'Town Centre First' policy**

3. Current town centre policy applies to office development as it does to retail, leisure development. This means that office development is subject to the requirement to demonstrate compliance with the sequential test and assess the likely impacts of the scheme on a range of impact considerations.

4. The objective of the change is to free office development from the need to follow the requirements of the 'Town Centre First' policy and for proposals to be judged on their individual merits including taking account of local and national policies on the location of new development that generates significant movement of people and the relative supply and demand of/ for office space in different locations.

**iii. Time horizon for assessing impacts**

5. The time horizon for assessing impacts of unplanned, retail and leisure schemes in the edge or out of centre locations is currently set at up to 5 years from the time the planning application is made. In some cases this is too short a time to allow the full impacts of large schemes to be assessed (especially for large sites and those that take considerable time to build). Often new retail and leisure development will have substantial consequences for other local businesses, local residents, transport infrastructure and the environment. When a development takes a number

of years to build, and then takes a number of years to establish itself in a new market, five years may not be long enough to capture the full extent of the costs and benefits of the new development. This may restrict local councils from making the best choices in determining planning applications, and restrict their ability to plan for the long term.

6. Changing the time horizon to 10 years would allow a reasonable period of time from the time at which a planning application is made for planning permission to be granted, the planning permission implemented and the development to realise its full operational impacts on town centre vitality and viability. This will allow local authorities to have full information when making a decision over future retail and leisure development.

#### **iv. Removing the maximum non-residential car parking standards for major developments**

7. The current policy (Planning Policy Guidance Note 13: Transport)<sup>1</sup> sets out national maximum parking standards for non-residential uses (i.e. the upper level of acceptable car parking provision) and size thresholds at which these maximum standards should apply. The aim of the policy was to encourage councils and developers to use land efficiently and where possible to take measures to minimise the need for parking. Local councils could set lower standards if there was an evidenced local need to do so.

8. Current Government policy on non-residential parking standards for major developments, such as retail and leisure developments over 1,000m<sup>2</sup> and offices over 2,500m<sup>2</sup> is too centralised and prevents local councils from developing policies that are most appropriate to their local circumstances and communities. Centrally prescribed maximum non-residential parking standards do not reflect local circumstances.

#### **v. Peat – removing the requirement for local councils to set criteria for the selection of sites for future peat extraction (i.e. to identify new sites).**

9. This policy will allow the planning system to support the Government's aim to phase out the use of peat in the UK. In 2010 Department for Environment, Food and Rural Affairs consulted on dates for phasing out the use of peat, which were 2020 for the amateur sector and 2030 for the professional sector. This will have environmental benefits by reducing greenhouse gas emissions and the destruction of rare habitats and archaeology. This policy will remove a requirement on local councils and will ensure that the planning system supports the Government objective (led by Department for Environment, Food and Rural Affairs) to phase out the use of peat.

#### **vi. Landbanks**

10. The policy change amends the length of landbanks in national policy, making it less prescriptive for scarcer/non-aggregate minerals. The wording is proposed to change from:

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<sup>1</sup> <http://www.communities.gov.uk/documents/planningandbuilding/pdf/1758358.pdf>

“at least 10 years for silica sand; at least 15 years for primary materials and secondary materials where these materials aim to supply an existing cement plant only; 25 years for brick clay and 25 years where it is needed to support a proposed cement plant”

to: “allocating sufficient land to maintain landbanks by ensuring landbanks of...at least 10 years for crushed rock. Landbanks for scarcer minerals, (silica sand and brick clay) should be for at least 10 years and longer landbanks may be justified in specific circumstances, such as the need to ensure the viability of proposed new investment”.

#### **vii. Removing the brownfield target for housing development**

11. A specific target for brownfield land was first established by the 1995 housing white paper, which aspired to 50 percent of all new dwellings being built on brownfield land. In 1998, this was increased to 60 percent.

12. Government wants to move away from a prescriptive designation of land towards a concept of “developable” land where local areas decide the most suitable locations for housing growth based on their local circumstances. This approach will enable local councils to assess land for its suitability for development based on its characteristics and their needs without top down central government intervention.

13 The preferred option would be to remove the target to allow local councils to determine the most suitable sites for housing, giving greater discretion and decision-making powers to local councils reflecting the fact that land supply constraints vary across local councils.

14. The removal of the brownfield target may impact on sites brought forward for housing development in the local plan. Local councils will be able to allocate sites that they consider are the most suitable for development without being constrained by a national brownfield target.

#### **viii. Requiring local councils to identify an additional 20% of deliverable sites against their five year housing requirement.**

15. The Government’s policy objective is that local councils should plan to meet their full requirement for housing and ensure there is choice and competition in the land market to facilitate the delivery of homes on the ground.

16. The draft policy asks Councils to identify additional ‘deliverable’ sites for housing as part of their five year supply of deliverable sites. The proposal is for this to be a minimum additional 20% of the five year supply to be added to the five year land supply. For example, in the first five years, local councils should identify sites to meet at least 120% of the **annual** housing requirement. This is not land over and above the local authorities housing target or 15 year supply of developable sites or broad locations but rather a frontloading of supply, ie the trajectory changes but not the overall total.

#### **ix. Remove the national minimum site size threshold for requiring affordable housing to be delivered.**

17. Current national planning policy sets a minimum site threshold of 15 units for requiring affordable housing to be delivered for all local councils. This means that any development of 15 units or more will trigger a negotiation over a contribution (paid by the developer) for affordable housing via a section 106 agreement.

18. By removing the centrally set 15-unit threshold for affordable housing, complete control will be given to local councils. This will allow greater flexibility for local councils to seek optimum solutions for their local areas.

#### **x. Removing rural exception sites policy**

19. Current policy allows local councils to set 'rural exception site' policies which allocate and permit sites solely for affordable housing in perpetuity for local people in small rural communities. This is where housing would not normally be considered appropriate due for example to policy constraints, such as Areas of Outstanding Natural Beauty. Rural exception sites seek to address the needs of the local community by accommodating households who are either current residents or have an existing family or employment connection. However, currently, the rigid requirement for sites to be only for affordable housing limits local councils' options for meeting the full range of housing needs. This can lead to local councils being discouraged from taking a wider view on the need for housing in those rural areas and considering the balance to be struck between the benefits of meeting housing needs and maintaining current constraints.

20. The Government's objective is to maintain the focus on affordable housing but give local councils greater flexibility to set out their own approach to delivering housing, including allowing for an element of market housing where this would facilitate significant additional affordable housing to meet local requirements. To ensure development is sustainable, rural housing that is distant from local services should not be allowed.

#### **xi. Protecting community facilities**

21. Government's Coalition Agreement included a commitment to help support important community facilities and services. In line with this, the proposed policy strengthens the current policy by asking local councils to consider the availability and viability of community facilities as part of the plan making process and to develop policies to safeguard against their unnecessary loss. This policy is applied to all community facilities and not just those within defined local centres and villages.

22. Strengthening the current policy to apply to all community facilities would provide local councils and communities with greater control over how they can most appropriately protect important community facilities. The policy cannot prevent unviable businesses closing but it can send a strong signal of the importance the local community attach to the continuation of a community asset and encourage innovation and diversification to maintain viability. However, the proposed policy might impose modest additional costs on local councils as they would need to develop an understanding of the availability and viability of community facilities within their areas. Costs may also be incurred by developers in instances where they need to produce evidence to demonstrate a building or development previously used by a community facility is no longer required or viable for community use.

## xii. **Green Belt**

23. Core Green Belt protection will remain in place. Four changes to the detail of current policy are proposed:

- i. Development on previously-developed Green Belt land is already permissible if the site is identified in the local plan as a major developed site – it is proposed to extend this policy to similar sites not already identified in a local plan;
- ii. Park and Ride schemes are already permissible – it is proposed to extend this to a wider range of local transport infrastructure;
- iii. Community Right to Build schemes will be permissible if backed by the local community.
- iv. The alteration or replacement of dwellings is already permissible – it is proposed to extend this to include all buildings.

In all cases, the test to preserve the openness and purposes of including land in the Green Belt will be maintained.

v. Local planning authorities with Green Belts in their area should establish Green Belt boundaries in their Local Plans which set the framework for Green Belt and settlement policy. Once established, Green Belt boundaries should only be altered in exceptional circumstances.

vi. The appropriateness of existing Green Belt boundaries should only be considered when a Local Plan is being prepared or reviewed. At that time, authorities should consider the Green Belt boundaries having regard to their intended permanence in the long term, so that they should be capable of enduring beyond the plan period.

## xiii. **Green infrastructure**

24. The objective is to secure more and greater coherence of strategic networks of green infrastructure<sup>2</sup> by planning positively for their creation, protection, enhancement and management. This will help support the natural environment, as well as providing green space for the use of local communities, supporting sustainable development and preserving green space for the use of future generations.

25. The preferred option would encourage local planning councils to take a more strategic approach to green infrastructure and give them a better understanding of the existing green infrastructure network and its functions in their area. This should contribute to better decisions being made about the protection and management of green infrastructure.

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<sup>2</sup> 'Green infrastructure' is a strategic network of multi-functional green space, both new and existing, both rural and urban, which supports natural and ecological processes and is integral to the health and quality of life in sustainable communities. The Natural England definition of green infrastructure includes high quality green spaces and other environmental features, encompassing varied space such as urban parks, domestic gardens, waterways and churchyards.

#### xiv. **Green Space designation**

26. The preferred option would be to introduce a new protection for locally important green space that is not currently protected by any national designation, giving greater discretion and decision-making powers to local councils and local communities reflecting the fact that some land is particularly valued by communities and requires additional protection. The new protection through a new designation<sup>3</sup> would fill the gap where land was important locally – for example for local amenity – but where a national designation would not apply.

#### xv. **Clarification on which wildlife sites should be given the same protection as European sites**

27. The Habitats Regulations apply specific provisions of the Habitats Directive to candidate Special Areas of Conservation, Special Areas of Conservation and Special Protection Areas which require special considerations to be taken in respect of such sites. Local councils are required to have regard to the Directive in the exercise of their planning functions in order to fulfil the requirements of the Directive in respect of the land use planning system.

28. As a matter of policy, the Government has in the past chosen to apply the provisions which apply to European sites to Ramsar sites and potential Special Protection Areas, even though these are not European sites as a matter of law. This is to assist the UK Government in fully meeting its obligations under the Birds Directive and Ramsar Convention.

29. To ensure that its obligations in respect of the Habitats Directive, the Birds Directive and the Ramsar Convention are fully met in future, and to reduce the risk that any consents granted when a site is being considered for classification would subsequently have to be reviewed (and either revoked or modified at potentially very significant cost) after classification, the Government is proposing to clarify that the provisions which apply to European sites should as a matter of policy also apply to:

- possible Special Areas of Conservation;
- proposed Ramsar sites; and
- sites identified, or required, as compensatory measures for adverse effects on European sites, potential Special Protection Areas, possible Special Areas of Conservation, and listed or proposed Ramsar sites.

30. This will provide certainty for local councils, developers and others about how to treat possible European sites, and should therefore ensure that a consistent approach is taken. This should contribute to better decisions being made about the protection of biodiversity, and reduce the risk of local councils paying compensation for any planning permissions that are revoked as a result of a site becoming classified as a European site.

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<sup>3</sup> The draft NPPF uses the term Local Green Space (paras 130-132)

#### **xvi. Decentralised energy targets**

31. The Government expects local councils to continue to support decentralised energy but does not need to require local councils through national planning policy to set council wide decentralised energy targets. The Government is committed to the zero carbon initiative, which is looking to reduce carbon emissions from new development. The increasing standards under the zero carbon initiative will help to drive decentralised energy, reducing the need for council wide targets. If local councils wish to set their own targets they can, and the policies in the Framework would not prevent such targets provided in their implementation they do not make development unviable.

#### **xvii. Proactive approach to identifying opportunities for renewable and low carbon energy**

32. The objective is to ensure that the planning system contributes effectively to the delivery of the Government's energy and climate change policy. The preferred option expects local authorities to consider identifying suitable areas for renewable and low-carbon energy sources, and supporting infrastructure, where this would help secure the development of such sources. Where developers bring forward proposals outside opportunity areas mapped in a local or neighbourhood plan they are asked to demonstrate that the proposed location meets the criteria used in plan making. This should provide transparency, and bring greater predictability to the planning application process.

#### **xviii. Historic environment:**

33. The heritage section of the Framework incorporates – and streamlines - the existing policies contained in Planning Policy Statement 5. It does not alter those policies or create new ones. Certain policies in Planning Policy Statement 5 have been omitted from the heritage section and are incorporated, more appropriately, in other sections of the Framework. These are:-

- Part of policy HE1 (Heritage Assets and Climate Change)
- Policy HE2 (Evidence Base for Plan-making)
- Policy HE4 (Permitted Development and Article 4 Directions)

One policy - HE5 (Monitoring Indicators) - from Planning Policy Statement 5 has not been incorporated as a specific policy within the Framework. All other Planning Policy Statement 5 policies have been condensed and included within the heritage section. Some of the detail of these policies in Planning Policy Statement 5 is considered to constitute guidance rather than policy and could more suitably be issued as such.

#### **xix. Traveller sites**

34. DCLG has consulted on a draft planning policy for traveller sites (PINS Note 14/2011). The consultation period has ended and a new Planning Policy Statement for traveller sites will be published as soon as possible following due consideration of the consultation responses. The new Planning Policy Statement for traveller sites will be reviewed in the light of

all comments received and incorporated into the final National Planning Policy Framework.

35. As part of its consultation on the National Planning Policy Framework, DCLG is seeking responses to the following question:

36. Do you have views on the consistency of the draft Framework with the draft planning policy for traveller sites, or any other comments about the Government's plans to incorporate planning policy on traveller sites into the final National Planning Policy Framework?