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the Earth**

Briefing

Draft National Planning Policy Framework: An overview

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What is the National Planning Policy Framework?

The National Planning Policy Framework (NPPF) will replace all the existing planning policy statements, planning policy guidance documents, and some circulars. It is the Government's overarching statement on the purpose of the planning system and sets out important objectives. The consultation on the draft runs until the 17th of October 2011.

So what power does the NPPF have?

NPPF sets out guidance and not law, but all local authorities must have regard to the contents of the NPPF when drawing up development plans or making specific decisions on planning applications. If, for example, a Local Authority ignored the contents of the NPPF then this can form the basis of a powerful objection in a local plan inquiry or in a public inquiry into a specific development. In some cases the failure to reasonably have regard to a NPPF could also be part of a legal challenge. Developers will appeal on the basis of the NPPF if permission has been refused. This draft NPPF will be open to challenge in many cases as the policy is unclear.

What does the draft NPPF cover?

This is not sustainable development (as defined in the UK's 2005 strategy), nor does the draft NPPF recognise environmental limits. The draft NPPF has been welcomed by the development and housing industry because it is heavily pro-growth. Because it is much shorter than the guidance that went before a lot of detail that was useful in supporting sustainable development has gone.

The draft NPPF covers the following areas:

1. Sustainable development.
2. Plan-making
3. Development management
4. Business and economic development
5. Transport
6. Communications infrastructure
7. Minerals
8. Housing
9. Design
10. Sustainable communities
11. Green Belt
12. Climate change, flooding and coastal change
13. Natural environment
14. Historic environment

So what does the draft NPPF say about sustainable development?

The draft NPPF states that "*The purpose of the planning system is to contribute to the achievement of sustainable development. Sustainable development means development that meets the needs of the present without compromising the ability of future generations to meet their own needs*" (para 9). The "contribute to the achievement of" is the weakest possible wording and is unenforceable.

The draft NPPF splits the sustainable development concept into the three pillars – economy,

society and environment, and then describes them separately. The planning system according to the draft NPPF is supposed to allocate the right sort of land in the right places for growth. The policy fails to recognise environmental limits, and fails to promote sustainable economic activity rather than growth. It goes on to say “*A positive planning system is essential because, without growth, a sustainable future cannot be achieved.*”

In contrast PPS1 said: “*development plans should ensure that sustainable development is pursued in an integrated manner, in line with the principles for sustainable development set out in the UK strategy*” and “*plan policies and planning decisions should be based on: - recognition of the limits of the environment to accept further development without irreversible damage*”.

The draft NPPF also introduces a presumption in favour of “sustainable” development.

What is the presumption in favour of development?

A presumption in favour of development is where development is approved unless there are impacts that outweigh the benefits when assessed against the draft NPPF (para 14).

“The presumption turns this expectation into policy – a policy that works with the existing plan-led approach, by emphasising the role of up-to-date development plans in identifying and accommodating development needs. Where those plans are not up-to-date, or do not provide a clear basis for decisions, the policy establishes the clear presumption that permission should be granted, provided there is no overriding conflict with the National Planning Policy Framework as a whole.” (para 17).

This presumption is very powerful, and effectively removes community input from the development management part of the planning system. The development will most likely be approved regardless of community objection. As the developers know this, there is also no incentive for developers to engage with communities in putting forward development proposals – they no longer need to in order to make their development more acceptable.

It will also encourage speculative development where there isn’t an up to date local plan – many local authorities have not yet managed to finish their local plan. In those areas, only the NPPF applies as guidance.

In the section on development management, the draft NPPF states that local authorities must: “*attach significant weight to the benefits of economic and housing growth*” (para 54). The aim of development management it seems is to increase the level of development approved. It then states that “*Local Plans, incorporating neighbourhood plans where relevant, are the starting point for the determination of any planning application.*” (para 62). But it then continues with: “*In assessing and determining development proposals, local planning authorities should apply the presumption in favour of sustainable development.*” (para 63) So while the starting point may be the local plan, even departure applications could argue that their development is “sustainable” and therefore should be approved. This will however be open to challenge, as the plan is a legally binding document.

Both planning obligations and conditions are to be used only when the development would otherwise be unacceptable, and introduce the issue of viability into the use of obligations. This raises the bar, and could reduce the local authority’s ability to address adverse impacts from developments (para 69 and 70).

What are the key principles for local plans?

The draft NPPF states that the core purpose of local plans is to actively respond to the housing, business, and other needs of an area. The draft NPPF principles are most clear

when talking about development (the default answer is 'yes') but become vague when sustainability is in question e.g. *"take account of environmental quality"* and *"recognising that some open land can provide multiple benefits"* (para 19). The transport policy has been weakened with the removal of references to reducing the use of the private car, replaced with *"manage patterns of growth to make the fullest use of public transport, walking and cycling, and focus significant development in locations which are or can be made sustainable"* (para 19). There is however positive encouragement for renewable energy.

In contrast to PPS1, there is no mention of environmental limits, resource use, climate change, equality, or public participation in the core principles.

In the draft NPPF, the section on what local plans should contain is directive about the information that needs to be brought together on housing need, and identifying retail expansion. In terms of development, an *"acceptable return"* is considered essential for the landowner as well as the developer, while the cost to the public purse of funding the infrastructure to make the development 'viable' is of lesser importance. (para 39).

All plans in order to pass the examination, must be "positively prepared" which could be interpreted as pro-development, and should enable *"the delivery of sustainable development in accordance with the policies in the Framework."* (para 48).

What's the role of Neighbourhood Plans?

Neighbourhood plans have to be in conformity with the strategic policy in local plans, but can plan for more development. However they also take precedence over local plans: *"when a neighbourhood plan is made, the policies it contains take precedence over existing policies in the Local Plan for that neighbourhood, where they are in conflict."* (para 51). This is open to challenge as it is legally unclear.

Open for business?

Overall the policies set out under the "economy" section are pro-growth. There is a much reduced role for planning in mediating between business interests, and the needs of the community, the wider public interest, and the environment.

The draft NPPF requires local plans to set criteria or identify sites for business development to match a strategy which anticipates economic growth (para 73).

Retail

In terms of retail, expansion of town centres, edge of centre sites and out of town policies should all be identified in the local plan. The impact of larger retail developments has to be assessed in terms of local consumer choice, viability and vitality of the town centre (para 76). This leaves out the detail in PPS 4 policy EC4.1 which recognised the need to support *"shops, services and other important small scale economic uses (including post offices, petrol stations, village halls and public houses) in local centres and villages"*, the retention and enhancement of existing markets, and the established character and diversity of town centres.

Transport

On transport, the draft NPPF states that *"Where practical, encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion. The planning system should therefore support a pattern of development which, where reasonable to do so, facilitates the use of sustainable modes of transport."* (para 83). The

definition of 'reasonable' is unclear. Nor does it require new developments to actively reduce the need to travel by car. And it actively calls on local authorities to plan for growth in the use of the car:

“Local authorities should work with neighbouring authorities and transport providers to develop strategies for the provision of viable infrastructure necessary to support sustainable economic growth, including large scale facilities such as Rail Freight Interchanges, roadside facilities for motorists or transport investment necessary to support strategies for the growth of ports, airports or other major generators of travel demand in their areas.” (para 85)

Minerals

The pressure of economic growth on finite resources is most apparent in the draft NPPF section on minerals which states:

“Minerals are essential to support sustainable economic growth. It is therefore important that there is a sufficient supply of material to provide the infrastructure, buildings, energy and goods that the country needs. The Government’s objective for the planning system is to:

- *secure an adequate and steady supply of indigenous minerals needed to support sustainable growth, whilst encouraging the recycling of suitable materials to minimise the requirement for new primary extraction; and*
- *facilitate sustainable use of energy minerals.” (para 100).*

The draft policy then goes on to require that local authorities *“give significant weight to the benefits of the mineral extraction, including to the economy”* (para 103). In contrast the current Minerals Planning Guidance stresses the need *“to ensure, so far as practicable, the prudent, efficient and sustainable use of minerals and recycling of suitable materials, thereby minimising the requirement for new primary extraction;”* (para 9).

The draft NPPF when granting planning permission advises local authorities to: *“ensure, in granting planning permission for mineral development, that there are no unacceptable adverse impacts on the natural and historic environment, human health or aviation safety, and bear in mind the cumulative effect of multiple impacts from individual sites and/or from a number of sites in a locality”* (para 103). In the current minerals planning guidance it advises local authorities:

- *“to conserve mineral resources through appropriate domestic provision and timing of supply;*
- *to safeguard mineral resources as far as possible;*
- *to prevent or minimise production of mineral waste;*
- *to secure working practices which prevent or reduce as far as possible, impacts on the environment and human health arising from the extraction, processing, management or transportation of minerals;”* (para 9)

As minerals extraction is constrained to particular places and has extremely damaging impacts on the environment, further detail on mitigation and dealing with permissions should be contained in additional technical guidance.

Housing

Draft NPPF policy on housing requires local authorities to plan for a growth in housing development. In particular it states that if the local authority has not identified sufficient suitable sites that “*Planning permission should be granted where relevant policies are out of date, for example where a local authority cannot demonstrate an up-to-date five-year supply of deliverable housing sites.*” (para 110). Local authorities have to identify more sites than are required for development. This will put immense pressure on certain areas.

The section on housing does not list specific criteria as to the type and quality of housing expected, or the need to address associated development issues in order to deal with climate change, resource use, inclusive design and accessibility (such as the needs of children) as there is in PPS 3. In general PPS 3 makes the link between housing and social and environmental issues in a way the draft NPPF does not: “*Local Planning Authorities should encourage applicants to bring forward sustainable and environmentally friendly new housing developments, including affordable housing developments, and in doing so should reflect the approach set out in the forthcoming PPS on climate change, including on the Code for Sustainable Homes.*”(para 15, PPS 3).

Open space

The draft NPPF policy on open space is a policy of defence. The local authority will have to argue strongly to defend this open space against development:

“Existing open space, sports and recreational buildings and land, including playing fields, should not be built on unless: an assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements; or the need for and benefits of the development clearly outweigh the loss.” (para 129).

Rather than the community being empowered to protect their open space, the draft NPPF provides a way for developers to build on this space by demonstrating the need for and benefits of their development. While it may be possible for communities under the draft NPPF definition of local green space to protect areas, it is clear from the restrictions placed upon the use of green space that the Government does not want green space designations used to prevent development in open countryside: “*The Local Green Space designation will not be appropriate for most green areas or open space.*” (para 131).

In contrast existing policy in PPG 17 states “*Open space and sports and recreational facilities that are of high quality, or of particular value to a local community, should be recognised and given protection by local authorities through appropriate policies in plans.*” It goes on to explain that open space can only be exchanged for other land of the same quality and accessibility if development is proposed.

Climate change

The section in the draft NPPF on climate change does contain some detail on the need to mitigate and address climate change impacts including the overall need to “*plan for new development in locations and ways which reduce greenhouse gas emissions;*” (para 150).

However if the presumption in favour of development functions then the policies that are set out here are not sufficiently directive or integrated with the policies on economic development, retail and housing to actually be implemented. The reduction of carbon emissions has to be explicitly set out in relation to new development rather than in abstract.

The positive identification of sites for renewable energy development required by the draft

NPPF is welcome, set out under paragraph 152 starting with *“To help increase the use and supply of renewable and low-carbon energy, local planning authorities should recognise the responsibility on all communities to contribute to energy generation from renewable or low-carbon sources.”*

In terms of adaptation, the policy allows for development to be considered in flood risk areas, with the following conditions: *“development is appropriately flood resilient and resistant, including safe access and escape routes where required, and that any residual risk can be safely managed; and it gives priority to the use of sustainable drainage systems.”* (para 157).

PPS 1 Supplement on Climate change in contrast set out the precautionary approach to flood development: *“take a precautionary approach to increases in risk that could arise as a result of likely changes to the climate.”* The precautionary principle is one where the proposed development should either not be carried out, or only carried out with extreme caution.

Environmental protection

The *“take account of”* (para 168) wording is very weak in planning terms in the NPPF section on environmental protection and biodiversity. This is in contrast with policies for housing and other pro-growth development where local planning authorities are directed that they ‘should’ ensure delivery of these developments in line with the Government’s growth objectives.

There is also a gap in the recognition that biodiversity and the environment are not restricted to a few protected areas, but must be actively promoted and enhanced in all areas.

Public participation and equality

There is no need to consider the impacts on more vulnerable people in society of developments. While the introduction to the draft NPPF talks about people involvement, it is silent on how for instance they will be involved where a presumption in favour of development operates, or where the impacts may be particularly detrimental to the most vulnerable in society. It instead talks about *“facilitating social interaction between people who might not otherwise meet each other”* (para 125).

PPS 1 had the following to say:

“Development plans should promote development that creates socially inclusive communities, including suitable mixes of housing. Plan policies should:

- *ensure that the impact of development on the social fabric of communities is considered and taken into account;*
- *seek to reduce social inequalities;*
- *address accessibility (both in terms of location and physical access) for all members of the community to jobs, health, housing, education, shops, leisure and community facilities;*
- *take into account the needs of all the community, including particular requirements relating to age, sex, ethnic background, religion, disability or income;*
- *deliver safe, healthy and attractive places to live; and,*
- *support the promotion of health and well-being by making provision for physical activity.”*

The Government have failed in the draft NPPF to direct planning and planning decision-

making to consider and address issues of inequality.

Conclusion

There is no vision as to the future development of England in this document.

The draft NPPF redefines sustainable development as growth, and in particular refuses to recognise environmental limits. Droughts and floods are just two examples of the limitations of the environment to support ever more development in certain areas without direct consequences.

The presumption in favour of development will undermine the local plan, and could undermine community input. It could also lead to poor and inappropriate development.

The draft policies in the NPPF ranging from housing to transport to minerals are all underpinned by a drive to permit development and not by sustainable development principles that recognise environmental limits. The planning system did not lead to the collapse in the financial system, or the collapse in the housing market. But the planning system is being appropriated to drive unsustainable, poor quality growth of a certain type forward. This will be at the expense of communities and the environment.

The draft NPPF should be revised to set out a sustainable vision for England. It should recognise environmental limits as part of sustainable development, remove the presumption in favour of development, promote sustainable economic activity, and recognise the need to address inequality and community involvement.

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