



Planning Briefing Note: March 2018

New Draft NPPF

Rewriting the rules on planning?



NEW DRAFT PLANNING POLICY FRAMEWORK PUBLISHED FOR CONSULTATION!

The long-awaited draft revisions to the NPPF have now been announced by the Prime Minister, with the claim that Government is committed to “rewriting the rules on planning”.

The draft, which is the first major reform in the six years since its inception, is now subject to consultation until 10th May, with the final document expected later this year.

The principle thread of sustainable development remains, but the focus of the revisions is clearly to facilitate more planning permissions. The premise is simple: More homes, more quickly in the places people want to live and in locations which already have infrastructure to accommodate increased densities.

Key Messages

Key messages contained within the draft framework include:

- Maximising the use of land;
- Greater emphasis on converting planning permissions into homes.

To facilitate these messages, the draft document requires Local authorities to adhere to a new ‘Housing Delivery Test’ focused on driving up the numbers of homes delivered in their area, as well as the numbers planned for. Penalties are expected for Councils who fail to meet their housing targets.

A new standardised approach to assessing housing need will be introduced, along with a standardised approach to assessing affordable housing viability. [A separate briefing note is being prepared on these topics].

In addition, new measures to make the system of developer contributions clearer, simpler and more robust, is being introduced. It’s not yet clear whether this new system will be part of the ‘Community Infrastructure Levy’ overhaul, which is currently being considered by the Government.

The draft guidance also clarifies the position with the provision of affordable housing on small sites, stating that affordable housing is only to be sought on ‘major’ sites (i.e. 10+ homes) unless in rural areas.

There is also specific reference made throughout the document to the use of ‘strategic’ planning policies (which should look ahead at least 15 years), hinting that perhaps the plan-led system is to revert [again] to the two-tier planning system of Structure and Local Plans!

There is also a major focus on maximising the use of land. More freedom will be given to local authorities to make the most of existing brownfield land to build homes that maximise density. Redundant land will be encouraged to be used for the provision of housing, such as under-utilised retail or industrial space (where the development of airspace is also supported), with more flexibility given to extend upwards on existing blocks of flats and houses as well as shops and offices.

To help make more effective use of urban land, the draft proposes the introduction of new minimum housing densities in town centres and around public transport hubs. The draft even goes so far as to suggest that concerns over daylight & sunlight impacts may be overlooked in high density development proposals.

The draft NPPF provides support for the diversification of town centres which are in decline.

Summary of Other Revisions

Other key changes contained within the draft NPPF are:

- Decision takers now need a ‘clear reason’ for refusing development where policies are out of date.
- Neighbourhood plans take precedence over existing non-strategic policies in a local plan for that neighbourhood, where they are in conflict (unless they are superseded by strategic or local policies that are adopted subsequently).
- Refusal of planning permission on the grounds of prematurity will seldom be justified where a draft plan has yet to be submitted for

examination; or, in the case of a neighbourhood plan, before the end of the publicity period on the draft plan.

- The use of Article 4 Directions to remove national permitted development rights should be limited to situations where it would be necessary to protect local amenity or the wellbeing of the area.
- Planning conditions should not be used to restrict national permitted development rights, unless there is clear justification to do so.
- Design alone should not be used as a valid reason to object to a development.
- LPAs are encouraged to demonstrate flexibility on format and scale when considering the sequential approach.
- LPAs are discouraged from applying pre-commencement conditions to planning permissions.
- Shorter timescale conditions are encouraged (e.g. 2 years for implementation), to expediate development (as long as this would not threaten the deliverability or viability of a proposal).

It would also appear that LPAs are being encouraged to be more flexible with the application of adopted policy and allocations, in that their decisions need to reflect changes in local demand for land and the deliverability of development over the plan period.

Local authorities are also being encouraged to work together and continue to close the gap between planning permissions granted and homes built.

Summary

If the draft changes are followed through, then the wait for changes to the planning system has been long, but may have been worth it! The draft document introduces many of the initiatives proposed in last year's 'Housing White Paper', whilst at the same time providing clarity on a number of changes that have arisen since the NPPF was first published in 2012. For example, long-standing issues such as the small site affordable housing contributions has finally been clarified.

However, at a time where LPAs are still struggling in terms of resources, the draft revisions to the NPPF provide a further drain. The requirement to demonstrate 3 years of deliverable sites, in addition to the 5 year housing land supply will no doubt be challenging (and open to challenge!),

However, the revisions can only assist in providing more certainty and clarity for developers in terms of what the financial cost of obtaining planning permission would be.

The greater emphasis on making the most effective use of sites and the encouragement to maximise the space above and around existing buildings (as well as greater densities in town centres), provides welcomed support for this approach to development. This is likely to increase demand for taller buildings.

The specific requirement for LPAs to make decisions that reflect changes in the demand for land is no doubt also welcomed by developers.

So, in summary, the draft revisions to the NPPF have the potential to encourage more homes to be built, more quickly in the places people want to live. The suggestion that the Government is "rewriting the planning rules" rather exaggerates the scale of changes proposed, which are to be achieved by modifying the existing planning system and penalising Councils who fail to meet their housing targets and deliver up to date development plans.

All in all, the draft revisions appear to pave the way for a more efficient planning determination process, one that should encourage and support more development, particularly housebuilding – something that the Government have been aspiring to for over a decade

The consultation on the draft revisions will run until Thursday 10 May.

Footnotes: More detailed Briefing Notes on the Housing Delivery Targets and the Draft Planning Guidance for Viability (also published today) are in preparation.

It is also of note that an end to end review of planning inquiries is also planned to ensure effective decision making at appeal.

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