



Draft Revisions to the NPPF

Billed as “new, fairer effective planning rules” to unlock land for housing delivery. The emphasis of the revisions provide greater focus towards housing delivery compared to the previous emphasis on promoting economic growth.

The document does not include some key headline measures such as a use-it-or-lose it policy for developers failing to implement land with planning permission, or the threat of government taking over plan-making powers from under-performing “special measures” authorities. We expect these policies will be set out in pending guidance and legislation expected later this week.

Sustainable development

As with the existing NPPF, sustainable development, as a principle, is at the heart of the NPPF. The revised text has been reordered to reflect the plan-making and decision-making processes. The revision also amends the old paragraph 14 test clarifying specific protected areas where the presumption may not apply within a defined list.

revised NPPF seeks to address this through providing much more emphasis on the plan-making process.

Local plans are still required to meet locally identified needs (as much as possible) as well as unmet needs from neighbouring areas.

Plan-making

The glacial speed of preparing new local plans has been a long-standing complaint of developers and local authorities alike and resulted in the stalling of development in many areas across the country. The

The Duty to Cooperate is retained in the NPPF, however, reference to the “Duty” has been removed. LPAs are to be required to prepare statements of common ground with neighbouring authorities and other relevant bodies. This joint working should assist with identifying infrastructure requirements and whether development needs of an LPA can be met elsewhere. We expect further guidance will be published through the PPG.

The general thrust of the revisions is to make local planning more straight-forward, with the LPA required to demonstrate the delivery of an **“appropriate strategy” as opposed to the current test of “the most appropriate strategy”** in the context of proportionate evidence.

The revised NPPF also confirms that local plans should be reviewed **every five years** and updated as necessary, taking into account changing circumstances and national policy. This includes updating strategic policies if their applicable local housing need figure has increased.

Transitional arrangements mean that the **revised NPPF will only apply to emerging local plans which have been submitted after six months of the publication of the revised framework in its final form.** In London (and for other spatial development strategies) the point of submission means the point at which a statement of intention is published to the Secretary of State (post-examination in public).

Decision making

The general push for positivity in local decision-making is retained in the revised NPPF.

The government has re-iterated its intention to restrict the use of unnecessary planning conditions, introducing a requirement that all pre-commencement conditions be agreed in writing with the applicant.

Viability

The revised NPPF has been published alongside new proposed guidance on viability in planning. **This includes a requirement that all viability assessments (where needed) should be made publicly available.** Interestingly, the Planning Obligations consultation which has also been published alongside the revised NPPF raises the potential for affordable housing and infrastructure contributions to be set nationally and to be non-negotiable.

Guidance on Viability

The PPG for Viability provides some clarity to the viability process including set definitions for key inputs such as Gross Development Value, Existing Use Values and Development Profits (confirmed at 20% return on GDV).

Further detailed guidance will follow after the consultation.

Housing supply

The standard methodology for calculating objectively assessed housing need is to be used in determining housing targets. The unmet need from neighbouring areas should also be taken into account as per existing policy. There is no update provided on the standard methodology consultation undertaken last year and we expect this to come forward within a further proposed guidance document.

Standard Methodology for Housing Need

The proposed standard methodology was consulted on last year in the [Planning for the Right Homes in the Right Places Consultation](#).

The standard methodology will simplify OAN calculations to provide a centrally based figure using the DCLG household forecasts adjusted for local house prices and local earnings.

LPAs will now be required to identify **20% of all housing sites on small-sites of half a hectare or less.** This could have significant implications for under-resourced planning policy teams, it also makes a bold assumption that this amount of small-sites are actually available in each authority area.

Local plans will now provide a housing target for designated neighbourhood areas (areas identified for a neighbourhood plan). This figure will be prescriptive and will not be re-tested during a neighbourhood plan examination.

The revised NPPF seeks to encourage and support the implementation of housing through a variety of measures. These include increasing five-year housing land supply (5YHLS) requirements through the implementation of a 10% buffer or clarification that a **20% buffer is required if housing delivery is persistently below the housing delivery test for a period of three years.**

Housing Delivery Test

The Housing Delivery Test assesses the actual delivery of housing through percentage measurement of the number of net homes delivered (including student houses and HMOs) against the number of homes required in a plan-making authority area.

The implementation of the presumption in favour of sustainable development will happen where the LPA cannot demonstrate a 5YHLS, **or the housing delivery test indicates delivery substantially below (75%) the housing requirement.**

If a LPA is to rely on a 5YHLS then it will need to prepare an Annual Position Statement in consultation with developers and others and this will need to have been considered by the Secretary of State.

The housing delivery test will also influence whether LPAs have to prepare action plans to address a shortage in housing delivery. This will be required where a LPA falls below 95% of its housing requirement over a three year period.

To encourage faster implementation of planning permissions, **LPAs are encouraged to impose shorter time limit conditions** rather than the relevant default of three year period.

Reference to garden city principles has been removed, instead promoting new settlements based on:

- Existing or planned investment on infrastructure
- Economic potential; and
- The scope for net environmental gains.

Affordable housing

One of the most significant changes is to the definition of affordable housing, with much greater emphasis on finding routes to home ownership rather than support for the rental market. The revised definition confirms that affordable housing is for those **“whose needs are not met by the market (including housing that provides a subsidised route to home ownership and/or is for essential local workers)”**.

New definition of affordable housing

- Removes the differentiation between affordable and social rent (affordable rent should be 20% below local market rent and provided through a locally registered provider);
- Introduces starter homes as affordable housing;
- Introduces other discounted market sales housing as a further affordable produce with an eligibility based on local incomes and house prices (there is no clarification on what this might be); and
- Sets out other affordable routes to home ownership, including:
 - Shared ownership
 - Relevant equity loans
 - Low cost homes for sale; and
 - Rent to buy.

Some of these definitions will require further clarification as it is not clear what, for example, low-cost homes for sale, could be.

A more prescriptive approach to identifying housing needs and types for different parts of the community is proposed.

This may open the door for the introduction of prescriptive affordable targets for alternative types of accommodation such as student housing and housing for older people.

The government proposes a requirement that major housing development provides at least 10% of homes to be available through affordable home ownership.

Affordable housing on small sites

Interestingly, local authorities are precluded from applying affordable housing policies to small sites (not major development eg less than 10 units or 1,000 sqm floorspace). This provision aligns closely with the government’s small sites policy which many local authorities are currently not applying but will find it harder to avoid if the revised NPPF is brought forward.

Effective use of land

Greater emphasis is provided on the requirement for effective use of land, particularly brownfield development.

New policies support the implementation of minimum densities, particularly in town and city centres and locations with good public transport accessibility. This includes promoting the re-use of retail and employment land where there is a high housing demand, provided it does not *“undermine key economic sectors or the vitality and viability of town centres”*.

More specific policies include:

- **Extensions in height** - promotion of upward extensions making use of airspace above existing homes so long as this is consistent with the prevailing height and form of neighbouring properties; and
- Taking a flexible approach to policies or guidance relating to daylight and sunlight where it would inhibit making efficient use of a site.

Design

The revised NPPF provides a general thrust towards encouraging LPAs to provide more detailed design guidelines based on local context and promoting placemaking within communities. The policies generally provide more emphasis and support for local authorities to increase the design quality of development.

The old paragraph 59 requirement to avoid unnecessary prescription or detail on design has been removed.

Heritage

Despite some concerns that the policy might be fundamentally changed, heritage related policy tests are largely the same. However, reference to the optimum viable use test when considering less-than-substantial harm to a heritage asset has been removed - we believe this is due to simplification of the policy rather than any technical reasoning.

Green belt

The government's stance on green belt is unchanged and the rhetoric around the publication of the revised NPPF is that the green belt is not seen as a solution to deliver significantly more housing.

There is more clarification on the exception test to ensure consistency for de-allocating green belt land through the local-plan making process. Exceptional circumstances will only exist where:

- There is insufficient brownfield or non-Green Belt land to meet identified needs;
- It optimises the density of development; and
- The plan has been informed by discussions with neighbouring authorities to explore whether more suitable land is available in neighbouring authority areas.

Regarding development applications, only minor changes are proposed to the definition of what is not considered to be inappropriate development. This includes a lower-test for brownfield green belt development providing affordable housing and inclusion of change of use of land where it does not impact on openness or the purposes of including land in the green belt.

Economic development

The revised NPPF provides far less emphasis on the need to promote economic development (for example, the existing definition for "economic development" is not included within the revised glossary). However, there remains significant weight on supporting economic growth.

Town centres

An additional requirement is proposed for the sequential assessment test requiring town centre opportunities to now be "fully explored". This could have significant implications for the level of evidence required to undertake the sequential test.

A new requirement is introduced for LPAs to identify "edge of centre" sites for main town centre uses that are well connected to the town centre and where viable town centre uses are not available.

Other proposals

A raft of other relatively small changes are included:

- The removal of all references to EU Regulations
- Additional requirements relating to air quality

management with reference to Clean Air Zones and Air Quality Management Areas.

- The agent of change principle requiring that new development can be integrated effectively with existing businesses and community facilities without the existing business having unreasonable restrictions placed on them as a result of permitted development.
- Specific commentary on ground conditions and pollution.

Consultation timescales

The deadline to provide consultation responses is 10 May 2018. The government's intention is to publish the final version of the revised NPPF in the summer. The short period between the close of the consultation and intended publication suggests that very few changes are expected between this draft and the final version.

Supporting House Building Through Developer Contributions

Alongside the NPPF publication, the government has published an additional consultation proposal to explore the potential for further CIL reforms.

The consultation document raises the potential for affordable housing and infrastructure contributions to be set nationally and to be non-negotiable.

The CIL reforms propose:

- A streamlined process for setting CIL charging schedules;
- Lifting the existing S106 pooling restrictions under Reg.123 in certain circumstances;
- A more proportionate way to administer exemptions;
- Clarifying how indexation is applied when an existing permission is amended;
- Extending abatement provisions to phased developments;
- Allow charging schedules to take into account land value uplift by allowing charging rates to be established by the existing use of land;
- Index CIL rates to local-authority house prices or CPI as opposed to the BCIS; and
- Allow combined authorities with strategic planning powers to introduce a Strategic Infrastructure Tariff.