

NPPF: the biggest reduction in business red tape of all time?

Liz Peace

Chief Executive, the British Property Federation

Minister Greg Clark must be feeling very relieved following the generally favourable reception of the revised National Planning Policy Framework published on 27 March.

We had told the Government on a number of occasions that whilst we fully approved of the sentiments underlying the original draft we felt there were a number of flaws and flights of rhetoric that threatened to derail the planning reform process. To his great credit Mr Clark



and his officials have clearly worked hard to resolve those issues with the result that the overblown language is gone, brown field and town centre first policies are strengthened and the intrinsic character and beauty of the countryside is recognised as a core planning principle.

But the heart (or should I say 'golden thread') of the NPPF, namely the presumption in favour of sustainable development, remains very firmly in place. And not only is it not diminished in any way, it is in fact reinforced by the arrangements that have been put in place for transition from the old system to the new.

The presumption – which seems to have been largely misunderstood in the debate over the original draft – takes effect in two ways. In the first, it requires a local authority to make plans that meet the evidence based

growth needs of its constituents for both jobs and housing in a sustainable way and up to the point where meeting such needs would constitute significant and demonstrable harm. So a local authority that has done its job properly will have a plan that shows clearly where development should take place and, equally significant, where it should not and when a planning application is made, it should be a quick and simple matter to determine whether it should be allowed or refused.

In the second, where a local authority has not managed to produce an accepted plan, the presumption requires that any planning application should be judged against the overall policies for sustainable development contained in the NPPF as a whole.

The transitional arrangements in the revised NPPF mean that where a local authority has a plan (or Core Strategy as it was originally known under the terms of the 2004 Planning Act), it will have twelve months to make sure that it conforms with the growth principles of the NPPF – and during those twelve months any planning applications will be judged against the Plan, provided there is only a limited conflict with the NPPF. For local authorities that have no plan produced since 2004 (and there are 50% that have not), then from 27 March planning applications will be judged against the requirements of the NPPF – which clearly has no local flavour or specific allocations of land, just a set of broad principles.

So in terms of giving development a fairly hefty shove in those places which have no proper plan, the NPPF is certainly going to have a big impact – and it is perhaps surprising that there hasn't been a bigger outcry. But, of course, for those who

may yet be tempted to cry foul, there is a very obvious answer – and indeed one which we have long been espousing – and that is to pressure into action those recalcitrant local authorities who in eight years have failed to produce a meaningful plan for their area. Perhaps at last they will get the message! ■

Martin Goodall

Martin Goodall's Planning Law Blog

The strange and totally inexplicable euphoria expressed by the Daily Torygraph, the National Trust and others is certainly not a reliable guide to the actual effect which the NPPF may have in policy terms. Their apparent joy at the publication of the final version of the document appears to me to be just as bizarre as their excoriation of the original draft. One is driven to the conclusion that they simply don't understand the planning system! ■

John Litton QC



Landmark Chambers

The King is dead, long live the King!

Green Belts remain protected from inappropriate development, a sequential approach is applied to town centre uses, sustainable transport remains high on the agenda and LPAs will have to demonstrate a five-year supply of deliverable housing

sites (but with an additional buffer of 5 per cent and 20 per cent for those LPAs with a record of under delivery).

Central to the NPPF is the concept of "sustainable development" but there is no clear definition. Instead, it has three dimensions to it (economic, social and environmental) and is only achieved by taking as a whole 201 out of the 219 paragraphs of the NPPF!

There is a change of emphasis in the approach to development control decisions with LPAs expected to look for solutions and not problems but the starting point remains the same: applications that accord with the development plan should be approved and those in conflict should be refused unless material considerations indicate otherwise.

Thus, Local Plans are key and will have to be reviewed or prepared with the objective of achieving sustainable development. But LPAs better act fast as they only have 12 months to get their Local Plan policies in line with the NPPF. ■

Alfred Munkenbeck

Munkenbeck+Partners Architects

I cannot tell you how welcome this will be to architects who want to build. This will reduce the time spent in planning because projects will get through with less re-submittals and less unnecessary red tape. The planning process is receding back to the days when it entailed a sensible amount of interference and direction in development. In my view they have still not gone quite far enough... Architects who get paid hourly for getting permissions will be less able to bill time but architects who enjoy building projects will be able to get on with it more frequently.

Basically bureaucratic mission

creep has been endemic. This has been accelerating to the point where planners are all snarled up in complex processes and internal disagreements about arcane subjects which have no benefit to public interest... As planners invent more and more things to try to control, they complain more and more about being understaffed.

This cannot go on forever and, thank God, the current lot are trying to roll the system back to when it was sensible.

Andy von Bradsky



Chairman of PRP architects.

The Government clearly recognises the importance that housing can play in revitalising our economy. Clarity in the planning process with the publication of the NPPF is to be welcomed, although many Local Authorities would prefer a transitional period whilst lawyers will be relishing the prospect of testing the definition of 'sustainable development'.

The increased investment in housing, such as the Get Britain Building fund and the New Buy mortgage scheme, should create confidence in the market even if the volume of homes that are built as a direct consequence of these initiatives is relatively low.

Of greater benefit in the longer term is the new emphasis being placed on investment in infrastructure. PRP published a report, Beyond Ecotowns: Lessons from Europe in 2008 which highlighted the learning from large scale development in Europe including the early investment in infrastructure to de-risk land and kick start development at lower costs by more builders. This is an approach which we should replicate to increase the volume of housing.

Of the other initiatives, investment in TIF's offer the potential to bridge the funding gap on large scale regeneration projects whilst HRA reform is likely to lead to either more stock transfers or see some Councils building again.

Overall this is good news and the London residential market should get busier. ■

Nigel Hewitson

Partner, Norton Rose LLP

The NPPF is to be welcomed. It brings certainty to what can all too often be a slow and unresponsive system by effectively providing for a presumption in favour of development which accords with relevant up to date development plan policies.

Provided he complies with relevant policies a developer can reasonably expect that he should be granted permission "without delay". Local planning authorities, on the other hand, have nothing to fear from the NPPF provided they keep their plan policies up to date and in accordance with the NPPF. ■

Philip Robin

Director in Jones Lang



LaSalle's Planning team

The Government's presumption in favour of sustainable development, without delay, is welcomed. I am encouraged by the statement that planning authorities should look towards solutions, rather than problems and also welcome the desire to lessen the burden of the planning system.

Investment in business should not be overcomplicated by the combined requirements of planning policy expectations and the information

required to accompany a planning application should be proportionate to the nature and scale of development proposals.

Especially pleasing is the recognition that planning should be a creative exercise, rather than simply about scrutiny, and this should help to improve the image of the planning system. Recognising the benefits of the garden city movement is a significant change to the town cramming policies that have existed in the last few years.

Linked to this is the welcome removal of density standards for housing – now to be set by local planning authorities to reflect local circumstances. The streamlining of the Local Plan system is also welcome with the norm being for a Local Plan for an area with additional documents only used where clearly justified. Far too much time and resource has been spent in producing a raft of development plan documents and this should help to improve efficiency and make the plan making system more understandable to local people.

But the lack of any regional level guidance could lead to major issues when Local Plans are prepared. Planned new housing allocations should be based on objectively assessed needs for market and affordable housing in the housing market area.

Focusing on housing market needs together with population projections will mean enormous pressure in the south-east to accommodate significant levels of new housing would be destroying the countryside plus the issues of adequate infrastructure provision, yet at the same time there may be limited justification for additional housing to be provided elsewhere in the country.

The UK is a small island, and the lack of inclusion of any form of regional planning guidance will not assist the underlying objective to promote sustainable economic development, much needed to help the country emerge from the current economic situation and to protect and promote the UK longer term position in the world economy.

This policy vacuum needs to be addressed as a matter of urgency. ■

Stephen Ashworth

SRN Denton

The NPPF is the inevitable in pursuit of the incredible. The abandonment of regional planning required policy to make it clear beyond doubt that the purpose of planning is to plan to accommodate our needs in the best way possible. Is anyone really saying that we should not provide the homes, business premises, shops that are required for a changing and shifting population? Of course not.

It was inevitable that there would be a focus on growth. The language of some of the opposition to the NPPF came from fairy land. It seemed to assume that growth could take place without effect. Growth has effects. Building new homes will use land and, in some places, that will be former green fields.

New jobs will be housed in new places, some of which may be in the countryside. Rejuvenated town centre will affect the heritage environment. The job of planning is to balance these tensions and the NPPF does that. The emphasis on allowing growth except where there are clear reasons for not doing so has to be right. It was incredible to pretend otherwise. The NPPF strikes the right balance in recognising that.

Less happily, the final document is poorly drafted. It is ill-structured. It is repetitive, with at least five paragraphs repeating the phrase "planning law says..." It is also confusing, suggesting that sustainable development is defined over the length of 200 paragraphs, most of which have nothing to contribute to any real understanding of sustainable development. That will cause debate on applications and at inquiries as the weight to be attributed to different parts of the document is examined to decide whether what is proposed really is sustainable development.

We will all suffer from the failure genuinely to grapple with what sustainability means in a planning and local context.

The worst part of the NPPF is the cowardice. We have a section in the Localism Act on financial considerations. You might expect national policy to explain how the New Homes Bonus and the other cash gimmicks weigh in the sustainable planning balance, not least when it comes to deciding on the scale of growth that should be accommodated. The issue is avoided.

Similarly, on viability the suggestion in the sections on viability is that standards and requirements need to be dumbed down to the point that development makes a competitive return. That is wrong. Viability is not a proxy for or a benchmark for planning. Sometimes good planning simply means saying no.

It is as much about cutting out the inexcusable rubbish as it is about planning positively. Failing to say robs communities of the confidence to define their areas. Both are examples of a poverty of courage. ■

Baroness Jo Valentine



Chief Executive, London First

Government is right to push through with reforms to the planning system. Getting rid of bureaucracy that has silted up our planning system will help unlock development and promote growth. We now also need to see progress in the introduction of an equitable cost recovery planning fee schedule to enable local authorities to run a well performing planning service alongside the policy."

The NPPF includes the following amendments

- A strengthening of policy on design and providing greater weight for the advice of design review panels
- Enshrining high quality design as a

core planning principle

- Greater clarity over the definition of sustainable development
- The announcement of transitional arrangements to allow local authorities to develop Local Plans
- Strengthening of provisions to encourage the development of brownfield sites. ■

Helen Greenhalgh

Director, Indigo Planning

London already has a strong policy framework in place so the impact of the NPPF should be less pronounced here than across the rest of the country. As well as boosting investment and growth in London further, it should help support proactive and positive discussions and decision making at all levels.

Simplifying the rule book doesn't simplify the issues, however. Especially in the capital where there is a greater concentration of people, businesses, politicians and other interests.

It might even make them harder to resolve and the whole process less accessible and transparent. Without adequate clarity in the new simplified wording, an unintended consequence of this framework could well be that the anti-localism approach of 'planning by appeal' becomes the norm during this transition period. ■

Peter Stewart

RIBA Planning Group

Plenty of pro-growth measures in the Budget, in infrastructure and housing, which are welcome. But the projects that are being supported will still need planning permission – so it's a shame we didn't get the NPPF issued on the same day, in a form that reinforced the message.

Speaking to the Parliamentary Architecture and Planning Group the day after the Budget, planning Minister Bob Neill said that the NPPF would be strong on design quality. Neill mentioned certain poor development being thrown up in booming

China as an example of the dangers of ignoring design quality. But he made it clear that the NPPF is also intended to deliver faster planning consents, needed by business in order for us to compete globally – and seemed blithely unaware that the twin goals of speedier outcomes and quality outcomes might turn out to be in conflict.

He said that existing PPS's and PPG's are to be abolished – except where there was important technical content that needed to be retained – that sounds like a muddle in the making. So if PPS5 turns out to be no longer needed, perhaps we could flog it to the Chinese – a win-win for a more competitive UK. ■

Angus Walker

Partner, Bircham Dyson Bell LLP



It's difficult to know what the impact of the small print will be on local authorities and communities.

The devil is in the detail, although reducing the guidelines to 50 pages will make a big difference in simplifying the process and it will be interesting to see how the reality of the small print plays out at local level.

The controversy around paragraph 14 about granting permission if the local authorities didn't have a local plan, has been covered with a 12 month grace period for the councils that have a post-2004 plan but it differs from NPPF guidelines.

Where there is not a plan, planning permission should be granted unless its impact would significantly and demonstrably outweigh the benefits of the development, assessed against NPPF policies, or unless the NPPF says the development should be restricted. There was also talk of 'certificates of conformity' where local plans complied with the NPPF,

but this has been downgraded to free advice available from the Local Government Association, the Inspectorate and the DCLG on the need to update a local plan (paragraph 217).

The duty to co-operate is certainly stronger than in the Localism Act 2011: local authorities will have to demonstrate evidence of having effectively cooperated when submitting their local plans for examination (paragraph 181).

Karen Charles

Planning Director, DTZ

The NPPF is good news for the economy and in particular house builders and property developers who have been frustrated in the past in their attempts to deliver the numbers of homes and new business premises. From a wider perspective, the NPPF should be a green light for much needed sustainable economic and housing growth.

The Government has tightened the definition of a presumption in favour of sustainable development. It is hoped this will be sufficient to avoid judgments about whether a development is 'sustainable' being addressed through the appeal process.

What will be interesting is the response of local authorities which now have 12 months to build these changes into their existing local plans. Given that many plans were prepared to take account of housing and other targets set by a Regional Spatial Strategy, the likelihood is that most plans, even those adopted in recent years, will need to be updated to reflect the more pro-growth approach provided by the NPPF. From past experience, this could be challenging.

There is a risk that local bureaucracy could impede the process. There remains some uncertainty about what a new 'Local Plan' will look like and the risk is that some developers and landowners may choose to challenge whether a plan is sufficiently up to date, potentially adding delays and cost. ■

National Planning Policy Framework: summary

Riëtte Oosthuizen

Head of Planning HTA



The long awaited simplified National Planning Policy Framework (NPPF) has finally arrived and is immediately in force. All existing national Planning Policy Statements and Planning Policy Guidance documents have now become redundant and planning applications should no longer refer to them. We have looked at some of the most paramount provisions put in place by the NPPF and provide a summary below.

The default 'yes' to development has been removed: The focus of the NPPF is on a presumption in favour of sustainable development and positive growth but the clause in the draft referring to decision takers at every level needing to assume the default answer to development proposals is 'yes' has been removed.

There is more meat to the definition of sustainable development:

Lack of clarity of the definition of sustainable development was one of the main drivers of criticism against the draft NPPF. The final NPPF draws on the Brundtland Report definition of sustainability, i.e. meeting the needs of the present without compromising the ability of future generations to meet their own needs. The five guiding principles of sustainable development are: living within the planet's environmental limits; ensuring a strong, healthy and just society; achieving a sustainable economy; promoting good governance; and using sound science responsibly. The pursuit of sustainable development is classified as job creation, increasing bio-diversity, replacing poor design with better design, improving the conditions for live, work, travel and leisure, and widening the choice of high quality homes.

Transitional arrangements and implications for decision making:

Local Plans are recognised as the starting point for making planning decisions in terms of planning law. However, these plans need to be up to date. For 12 months from 27th March 2012, local planning authorities may continue to give full weight to relevant planning policy adopted since 2004 (even if there is a limited degree of conflict with the NPPF). In cases where there is no local planning policy adopted (or saved by implication in terms of the provisions of the Planning and Compulsory Planning

Purchase Act 2004) due weight should be given to the consistency of policies with the NPPF. Thus, if there is inconsistency, the NPPF should be a more important material consideration. Once the 12 month transitional period has expired, due weight needs to be given to the consistency of policies with the NPPF.

More emphasis on use of brownfield land:

The draft NPPF dropped references to the need for development on brownfield land. Following a huge backlash, the final NPPF expresses a 'preference' for development on land of lesser environmental value and it 'encourages' the effective use of land that has been previously developed (brownfield land). Local planning authorities may set their own targets for the use of brownfield land.

Not as far as 'Town Centre First' but ensuring the 'Vitality of Town Centres':

Various lobbying bodies were concerned with the lack of protection given to town centres in the draft NPPF. The final NPPF now promotes "positive competitive town centre environments". The sequential test for introducing retail, leisure and office uses over a 2,500 sqm threshold in out of centre locations have been re-introduced in the final version of the NPPF.

Less onerous provisions regarding housing supply:

Local authorities are to identify and update annually a supply of specific deliverable sites to provide 5 years of housing against their housing requirements with an additional buffer of 5 per cent to ensure choice and competition in the market for land. (The draft NPPF suggested an additional 20 per cent of sites – this provision was dropped). However, if local authorities have a record of 'persistent under delivery of housing' 20 per cent of additional sites should be identified. (However, the NPPF does not clarify 'under delivery').

Local planning authorities can set their own local parking standards:

Local parking standards (as per the change to PPG 13 in 2010) are encouraged, but needs to take account of: the accessibility of development, the type, mix and use of development; the availability of and opportunities for public transport; local car ownership levels and an overall need to reduce the use of high-emission vehicles. Aside from this, and oddly in contradiction, one of the key 'core planning principles' of the NPPF is "to make the fullest use of public transport, walking and cycling, and focus significant development in locations which are or can be made sustainable" (Paragraph 17).

Good Design:

The Government claims that it now has the 'most exacting requirement for design that the English planning system has ever contained'. The provisions for design are largely similar to that in the draft NPPF. Local and neighbourhood plans should "develop robust and comprehensive policies that set out

the quality of development that will be expected in the area" although planning policies and decisions should not attempt to "impose architectural styles or particular tastes". Local planning authorities are encouraged to use design codes (Paragraph 59) and to have local design review arrangements in place (Paragraph 62). Public consultation in design is important: "Applicants will be expected to work closely with those directly affected by their proposals to evolve designs that take account of the views of the community. Proposals that can demonstrate this in developing the design of the new development should be looked on more favourably".

No mention of permitted change of use from offices to residential:

The development industry expected some announcement regarding the Government's consultation last year on the permitted change of use from offices to residential. The final NPPF does not make any direct reference to this matter, but there are a few clauses that support such changes, including: "Local planning authorities should identify and bring back into residential use empty housing and buildings in line with local housing and empty homes strategies...normally approve applications for change to residential use and any associated development from commercial buildings (currently the B use classes) where there is an identified need for additional housing in that area..."

Public engagement:

In line with Clause 122 of the Localism Act, which not only expects applicants to demonstrate that they have endeavoured to consult local residents, but also how design proposals have incorporated feedback, the NPPF encourages pre-application engagement with residents.

What does it mean for you?

For the immediate future, and in particular in London where most boroughs have made good progress with their Core Strategies, not much will be different in the way planning applications are assessed apart from the fact that the NPPF will serve as a material consideration and it is undeniably growth orientated. The onus is very much on local planning authorities to review the supply of sites suitable for housing development and to ensure that there is adequate supply.

Nevertheless, it will be much more important to illustrate that design proposals have the support of local residents and therefore public engagement in the cases of major development proposals will have to be carefully thought through. Once Neighbourhood Plans are in place, it will be very difficult for developers to get approval for proposals that are contrary to these plans. For this reason, it will be essential for developers to ensure they engage in areas where neighbourhood planning activity occurs. ■

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