

Draft revised National Planning Policy Framework

Evolution not revolution

March 2018

Turley

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On 5 March 2018, the draft revised National Planning Policy Framework (the 'NPPF') was published for consultation by the Ministry of Housing, Communities and Local Government (MHCLG), and incorporates policy proposals previously consulted on in the Housing White Paper and the Planning for the right homes in the right places consultation. It will eventually replace the current, March 2012, version of the NPPF.

Alongside this document, and its accompanying Consultation Statement, a variety of other equally important papers were also released, including "Draft Planning Guidance for Viability", details of the "Housing Delivery Test: draft measurement rule book", and "Supporting housing delivery through developer contributions". Also released were the "Government response to the housing White Paper consultation: Fixing our broken housing market" and "Section 106 planning obligations and the Community Infrastructure Levy in England, 2016 to 2017: report of study".

Subsequent to the original announcements, draft amendments to the NPPG were also released reflecting the foregoing documents.

In advance of the release of the draft revised NPPF document, Turley co-owners offered their thoughts on what they wanted to see within the document. These are included in pages 4 to 7 of this document, whilst at page 8 to 11 immediate thoughts were offered up.

Following its publication, our co-owners prepared a variety of more detailed articles on key topic areas. This document compiles those into a single document for ease of reference. We hope you find it of interest.

The NPPF consultation closes at 11:45pm on 10 May 2018. Please contact your local Turley office for advice on any implications to your projects, or for assistance in submitted representations to the consultation.



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01

Co-owners discuss their top 10 NPPF 'wants'

Before the draft revised NPPF was published, we asked a number of our co-owners to tell us what they would like to see in its second edition, learning from our experiences of the past 6 years.

- Green Belt
- Logistics
- Footnote 9
- The economy
- Standard methodology
- Neighbourhood Plans
- Change in the historic environment
- The "tilted balance"
- Sequential tests
- Paragraph 173 - viability

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Green Belt

“Whilst I am sure that my hope will be in vain, addressing **Green Belt** policy in a more flexible and positive way is a must if the NPPF is really going to face down the housing crisis. I am hoping for some reinterpretation of how Very Special Circumstances are addressed in the context of both a housing land supply shortage and in terms of addressing Objectively Assessed Needs in the preparation of Local Plans. I don't think we will get much joy, but a slight tip in the balance is all it needs to make a positive difference. ”



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Logistics

“We need to get serious about **logistics**. For every home we build we need more warehouse space to support our individual and business demands. I would like to see greater clarity on how local authorities need to plan for this employment use, including a specific mention within the duty to cooperate as logistics needs do not acknowledge borders. ”



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Footnote 9

“Clarification that the presumption in favour is capable of applying where the policies in **footnote 9** are in play would be welcomed. In many of those circumstances it may be possible for the policy restriction to be overcome, for example where a scheme causes less than substantial harm to a heritage asset but where that is outweighed by the benefits of the proposal. ”



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The economy

“It is critical that the NPPF continues to give weight to the planning system's role in creating a **strong, competitive economy**. I would like to see the requirement for plan-makers to ensure that housing, employment, and other uses, are considered in an integrated way is retained as is currently required through paragraph 158 of the Framework. This should remain a central tenet of the NPPF and not become a 'choice' to be made by 'self-nominated' authorities. ”



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Standard methodology

“It is unclear whether or not the **standard method** will be published next week, but as a minimum I expect that the revised NPPF will set out policies to guide its implementation. The standard method must enable sustainable housing growth that addresses overheated markets and rebalances inequalities across the country, consistent with initiatives such as the Northern Powerhouse and the Industrial Strategy. It is therefore essential that the NPPF confirms that any demographic-based figure is only the starting point which must be adjusted in line with economic growth forecasts and market signals. It must make clear that such adjustments are necessary – not just desirable – to the preparation of a “sound” Local Plan. 🗨️



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Neighbourhood Plans

“Following the unsuccessful high court challenge of the Written Ministerial Statement earlier this year, I expect to see the amended NPPF be explicit in stating that policies relevant to the supply of housing in a **Neighbourhood Plan** will be out of date, if the local planning authority cannot demonstrate a three year housing land supply, or the Plan fails to allocate sites for housing. I would like to see clarity on what it means for a Neighbourhood Plan when the parent Local Plan is found to be out of date on the basis that it does not seek to meet the housing need. I also expect there to be a requirement for local planning authorities to provide a specific housing requirement figure for a Neighbourhood Plan area, when requested. This could be positive for housing growth, as a specific housing need figure will ensure Neighbourhood Plans provide for sufficient growth. 🗨️



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Sequential tests

“In respect of applications for retail developments and other main town centre uses, the current PPG does not provide sufficient detail or clarity on the interpretation of the impact and sequential tests to ensure consistent decision making. The principles are clear, but detailed technical guidance is lacking. Decisions relating to the sequential test are increasingly guided by case law leading to contradictory and inconsistent appeal outcomes, which only serve to complicate the interpretation of the Framework. Whilst we would support the principles established by the NPPF recognising town centres as sustainable locations for town centre uses, consideration should be given to clarifying the tests, either within the policy wording of the NPPF, or within the PPG. 🗨️



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The “tilted balance”

“I would like to see the scope of the existing paragraph 47, which seeks to boost the supply of housing, widened to cover other forms of development, rather than just housing, in order to reinforce the ‘tilted balance’ component of paragraph 14 for other uses. Some form of recording of **objectively assessed needs and delivery of other uses**, with the imposition of a buffer for non-delivery, could positively encourage other types of essential development, such as logistics, commercial or retail. Whilst housing supply will clearly continue to be a major issue for the NPPF to grapple, it is important to support the delivery of other types of land use that are essential to support a post Brexit economy. 🗨️



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Historic environment change

“I see there being an important opportunity to bring clarity to the policy distinction between ‘less than substantial’ and ‘substantial’ harm and to resolve the unhelpful tension between these terms and the statutory duties of the Planning (Listed Buildings and Conservation Areas) Act 1990. This amendment would help to untangle and simplify the basis for **advocating change in the historic environment**. ”



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Paragraph 173 - viability

“It will undoubtedly represent a regressive step if Government moves to dilute paragraph 173 of the Framework to limit developers’ options for addressing **viability issues** at the application stage or if proposing to restrict (or remove) a landowner’s entitlement to competitive returns. Deliverability is essential to maintain and accelerate momentum in the respective land and housing markets. Feed the industry. Don’t starve it. ”



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02

NPPF v2 – making the changes...

Draft revised National Planning Policy Framework

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On the day that the draft revised NPPF was published, our co-owners offered their initial thoughts on the document, in advance of more detailed consideration.

Housing delivery

“It is pleasing to see that the revised NPPF recognises a **multi-tenure approach to housing delivery**, acknowledging and defining Build to Rent within the revisions. The complexities of delivering Build to Rent schemes have been recognised through its exemption from paragraph 65, which outlines a requirement for at least 10% affordable provision for major housing developments, and the inclusion of Affordable Housing for Rent within the Glossary (also referred to as Affordable Private Rent). This provides an appropriate vehicle for ensuring Local Authorities can secure affordable housing as part of Build to Rent developments. ”



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Paragraph 173 - viability

“The Government has really “gone to town” on viability matters in its proposed revisions to the Framework, placing much more stringent emphasis on Local Plan viability evidence as oppose to evidence relied upon at the decision making stage. However, this is a very simplistic view of how development economics actually work and I suspect that the supposed “catch-all” Local Plan viability testing will in practice still require subsequent testing as costs and values change over time. There is too much to summarise here; look out for our full analysis in the very near future. ”



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Neighbourhood Plans

“As expected, following the Written Ministerial Statement last year **Neighbourhood Plans** will become fundamentally entwined with national planning policy, including the added ability to amend Green Belt boundaries. However, with new power comes greater responsibility. Local planning authorities will need to establish a specific housing need which Neighbourhood Plans will need to plan for. This is encouraging for housing delivery. It provides a much needed stick to ensure that Neighbourhood Plans seek to positively accommodate growth and are not just used as a tool to resist development. It is disappointing that Neighbourhood Plans will not be subject to more rigorous testing to ensure the delivery of sufficient growth, rather than continuing to rely on meeting the ‘basic conditions’.”



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Retail sequential test

“The draft revised NPPF attempts to introduce greater clarity in the application of the **retail sequential test**. The guidance now stipulates that alternative sites need not be immediately available. How the term ‘reasonable period’ is to be interpreted is likely to be the source of much debate. Perhaps unhelpfully, the document is less clear on the time horizons for impact testing (previously 5 or 10 years). The removal of the requirement to undertake impact assessments for offices is helpful. On balance, the direction of travel for town centre policy remains the same. Greater clarity on the interpretation of the impact and sequential tests is required in future iterations of the NPPF or accompanying guidance to ensure consistent decision making. ”



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Facilitating economic generating activities

“With Brexit on the horizon, we should be proactively **facilitating economic generating activities**, with willing businesses ready to invest. In the limited two paragraphs within Chapter 6 “Building a strong, competitive economy” it does not appear that the government sees the planning system as a tool for enabling a post Brexit economy. It still places the emphasis on the plan-led system to deliver non-housing development, albeit that paragraph 83 d) calls for policy to “enable a rapid response to changes in economic circumstances”. This is however not the ‘stick’ that is needed to make the difference at the decision making stage to ensure that this happens. We need to ensure that we are building real communities, and that involves other forms of development other than just housing. With slow plan-making, we are missing out on these opportunities and there is not the agility or flexibility to support investment that our modern business environment demands. ”



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Design

“The Government is emphasising a commitment to creating great places. No doubt recognising that there is work to do in winning hearts and minds as emphasising Design Quality and a sustainable legacy from new building. Whilst sections 11 and 12 are the explicit new places where we find reference to **Design**, I would urge all concerned about placemaking to read the documentation as a whole. The entire plan making framework is particularly significant including those relating to retail and town centres and indeed sustainability and the historic environment. The important message is that Design should not be considered as a ‘bolt-on’ aspect of town planning and development delivery.

“Chapter 11 certainly requires greater density of development to be delivered in key locations - primarily by making optimum use of land. The NPPF will encourage higher building forms; more intense site developments. This must be done respecting Place and Context. It’s anticipated that the new Chapter 12 on Design will also promote more announcements in coming months. ”



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Employment land

“The NPPF revisions tacitly assume that business just takes “care of itself” without the need for the planning system to play a more positive or enabling role. This is a big assumption in the face of Brexit headwinds and the uncertainty that this brings.

“I am concerned that the relaxation of rules for change of use relating to **employment land** may create mono-use cities and lead to inefficient transportation of goods to dense centres of population. Great care needs to be taken in the application of such approaches to ensure that some businesses, such as logistics operators, are not inadvertently “zoned out” of our major cities. The revisions to paras 82/83 and reference to the Industrial Strategy’s “high value” sectors also need to be interpreted carefully to ensure that in practice this does not stymie investment. ”



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Policies

“It is disappointing, but not unexpected, that the proposed revisions to the Framework remove the need for Local Plans to evidence the integration of their **housing and employment policies**. This not only reflects the Government’s desire to tighten the scope of plan making evidence but also pre-empt the proposed standard method for calculating housing need.

Section 6 still recognises that an inadequate supply of housing can represent a barrier to investment. However, the revised Framework proposes no requirement to test whether planned housing levels are likely to constrain local economic growth. This leaves housing and economic considerations effectively severed, unless a Local Planning Authority opts to attempt to reconcile the two. ”



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Housing needs

“The standard method for calculating **housing needs** has not been published. It is expected that it will be contained within the draft revised PPG to be released later this week. However, it is disappointing that the tests of soundness are proposed to be amended to state that Local Plans should “meet as much as possible” of the areas housing needs. This appears to remove the requirement for authorities to consider the merits of a higher housing requirement, which in some areas is necessary to achieve sustainable development and which has been instrumental in compelling authorities to increase their housing targets. The implications of this change for housing delivery across the country will only become clear when we see the detail of the standard method. It is encouraging however, to see some recognition for the provision of a mix of housing types, as well as new a focus on small site delivery through Local Plans. 🗨️



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Green Belt policy

“I had low hopes and was not disappointed! There is some tinkering with **Green Belt policy** to expand upon the provisions for using previously developed sites for affordable housing but nothing of the substantial change that would have had a real impact on addressing housing needs, albeit an interesting line to pursue for particular GB sites. The draft also confirms that sites within the Green Belt should only be allocated as a ‘last resort’ in plan making and this will pose LPAs with a challenge in terms of how and when they can arrive at such a conclusion (post Duty to Cooperate and considering PDL / accessible locations). A recipe for confusion (and delay no doubt). Another thread of interest is an apparent shift in the approach to safeguarded sites, which may require authorities to give it more serious consideration. 🗨️



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Paragraph 14 and footnote 9

“Case law issued during the course of 2016 and 2017 regarding **paragraph 14 and footnote 9** had left some doubt as to whether the presumption in favour could be applied where the development related to the matters listed in the footnote but that where the restriction had been overcome. The updated NPPF offered the opportunity to clarify that in such circumstances the restriction no longer applied and the presumption could be applied. However that opportunity has not been fully taken and we will therefore need to look to NPPG for guidance. The clarification that the footnote does not relate to policies in development plans is nevertheless a welcome step. 🗨️



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How can Turley help?

The “**Consultation proposals**” set out a range of questions, and we look forward to engaging in the consultation on behalf of our clients. We will be reviewing the documentation further and providing additional commentary over the coming weeks, in terms of what this document may mean to our clients, individual sectors and regions.

03

The NPPF and health: Fitter, happier, more productive?



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Health and well-being in our towns and cities and the effects of air pollution have been ascending the political and planning agendas in recent years.

These matters continue to feature in the proposed revisions to the NPPF and have been expanded to include the health and well-being impacts of estate regeneration and the promotion of public safety, security and defence.

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The NPPF and health: Fitter, happier, more productive?

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Section 8 of the revised NPPF specifically deals with promoting healthy and safe communities. However, health is not just confined to a single section of the Framework. Rather it is a binding thread running through a number of topics including:

- Planning community and education infrastructure
- Ensuring adequate open space
- Promoting sustainable transport
- Addressing poor air quality
- Balancing the effective use of land with health living conditions
- Mitigating the effect of high levels of pollution and ground contamination

Here we profile which aspects of the Framework have been retained, which have been omitted and what has been added in relation to promoting healthy and safe communities.

Retained elements

The important role that planning can play in meeting community needs and enabling provision of social, recreational and cultural facilities has been retained.

Paragraph 93 clarifies the need to ensure an “integrated approach” to considering the location of housing, economic uses, community facilities and services. This is a key principle of well planned and healthy places.

It is good to see that education provision continues to be given importance in the revised Framework. Paragraph 95 states that local planning authorities should give “great weight” to the need to create, expand or alter schools.

In our experience, major new developments can provide a solution for education issues and lead to investment in a choice of school places. In this context, the retention of paragraph 95 is helpful in ensuring proper consideration of the education issues and solutions that are associated with development.

We are also pleased to see the retention of a requirement for local planning authorities to resolve key planning issues pertaining to education before applications are submitted, and the associated requirement to work with school promoters and delivery partners in doing so.

Omissions

Garden City principles have been removed from the proposed revisions to the Framework.

Dispensing with Garden City principles could perhaps signal that the Government recognises that healthy and safe communities can take many shapes and forms. There is not a one size fits all approach.

Some commentators have already claimed that this may lead to ambiguity in place making and healthy planning principles. We are keeping a watching brief on this point and look to the forthcoming PPG revisions and Spring Statement for further details of new garden towns and villages.

Additions

Understanding the impacts of estate regeneration is a new feature of the Framework included under the banner of promoting healthy and safe communities (paragraph 94). Local planning authorities are encouraged to use their “planning powers to help deliver estate regeneration to a high standard”. It remains to be seen whether forthcoming revisions to the PPG will define what constitutes a “high standard”.

A new paragraph 96 states that planning policies and decisions should promote public safety and take into account wider security and defence requirements. This has implications for the layout and design of developments where large numbers of people are expected to congregate (for example cinemas, shopping centres etc.).

Emphasis is placed on factoring in up-to-date information on potential threats and implications as well as designing in proportionate measures to reduce vulnerability and to ensure public safety.

Summing up

Planning in England emerged as a response to public health concerns about the urban environment. These concerns are still relevant today, and it is apparent that health and well-being are an enduring feature of the NPPF.

It is encouraging to see health and well-being embedded in multiple parts of the revised Framework – an acknowledgement that we need a holistic approach to creating healthy and safe communities.

04

Viability, Developer Contributions and CIL – welcome to planning’s Wild West



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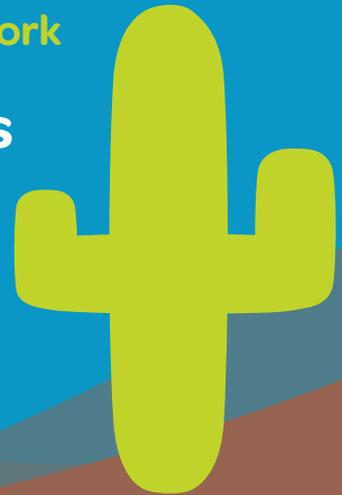
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Viability, Developer Contributions and CIL – welcome to planning’s Wild West



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Government and the press have been firing warning shots over the use of viability assessments to negotiate developer contributions and secure reductions in affordable housing provision.

The industry held its breath as the release of the Government's draft NPPF text, the draft PPG on Viability and parallel Developer Contributions consultation approached.

But, who had the luck of the draw?

The Good

With the dust settled, some clear positives emerge for deliverability:

- 'Fixing' viability at the point of Local Plan adoption would be the Government's desired 'silver bullet', but the reality is a role remains for site-specific viability appraisal as a mechanism to ensure sites are deliverable at the point of decision-making. This represents an acknowledgement from Government that costs and values alter both spatially and chronologically, development sites and proposals are atypical, and new products are also emerging (e.g. BtR or communal living).
- 'Standardisation' of viability methodology largely reflects the status quo (for exceptions see 'The Bad'). Clarification of an acceptable developer's return at 20% on GDV for open market dwellings and 6% on GDV for affordable dwellings is already widely utilised, but useful ratification. No standardised commercial return as yet.
- Confirmation of exclusion of small sites (1-9 units or <0.5ha) from requirements for affordable housing, reversing the trend of recent Appeal Decisions.
- Expansion of the definition of affordable housing to incorporate Starter Homes and other LCHO products and introducing a requirement for 10% provision on sites of 10+ units (excluding BtR, elderly persons housing or student schemes). Clarity is needed as to whether the 10% requirement is representative of the total dwellings proposed overall or as a proportion of the affordable housing requirement only.
- Recognition that BtR requires a distinct approach to viability testing, the introduction of Affordable Private Rent (APR) as the appropriate tenure for provision of affordable housing within BtR, and the permitting of independent APR management will be welcomed by developers and institutional funds.
- Incorporation of Vacant Building Credit into policy will continue to support viability on brownfield sites.
- Removing the S106 pooling restrictions in certain circumstances (linked to 10th percentile house prices, where CIL is adopted, or where development is planned on multiple strategic sites). A welcome move. Crucially, letting LPAs 'off the hook' for CIL in less viable parts of the country.
- Tinkering with the functionality of CIL to address longstanding industry concerns regarding indexation (to be locally reflective of property prices), simplified charging (large sites), exemptions administration and abatements are welcomed. The overhaul of Regulation 123 List requirements is also promising. I'm sat on the fence with the proposed 'SIT' – beneficial where CIL is plentiful, but worthless where CIL receipts are limited.

The Bad

Negatives to emerge, both for industry and Local Authorities:

- A renewed Government emphasis on viability evidence underpinning Local Plans. This will need to be substantially more thorough and robust than present practice if it is to achieve the Government's objective of avoiding later reappraisal of key allocations (i.e. upon application). Cue more costly and time-consuming evidence preparation for Local Authorities. Frankly, this feels pointless.
- A requirement for promoters to supply viability evidence to support allocation at the Plan-making stage. Failure to do so can justify exclusion. Is this for all allocations – even the small ones? This time, cue more costly and time consuming evidence preparation for landowners, promoters and developers.
- The 'clear as mud' and inconsistent draft PPG proposals for benchmarking land value (i.e. 'competitive landowner returns') in viability testing Local Plan policies, CIL setting and site-specific viability:

Step 1

EUV is the starting point excluding 'hope' value. AUV is excluded except where permission is extant or where there is prospect of realistic deemed consent. Broadly consistent with the GLA's AH SPG and draft London Plan so far, albeit commercially unrealistic.

Why should a landowner ignore the prospective land value generated by an alternative use where acceptable in planning policy terms, simply because the land doesn't already benefit from said (costly) planning permission?

Step 2

Add a 'premium' to create 'EUV+', which must be enough to trigger disposal by a rational landowner.

What's the premium? Not specified. Must be individually calculated. Ok...

Step 3

Find prices paid for comparable sites with policy compliant permission for intended end use(s). Weight various factors accordingly to compare with subject site. Calculate EUV of comparable sites. Crikey.

Step 4

Apply evidence of uplift from EUV to market price paid for comparable sites (presume £/acre, £/plot or £/m² development) to EUV of subject site. There's your EUV+. Easy....

Now, throw into the above mix that the Developer Contributions consultation document explicitly proposes setting CIL rates based on the EUV. No reference to the '+'. This probably (hopefully!) isn't the Government's intention, but without revised PPG for CIL, the consultation suggests landowner's returns will be restricted to EUV only for setting CIL liability rates.

At its most punitive, this would mean all uplift in land value (from EUV to permitted use), after development costs and minimum (i.e. capped) developer's profit, will be captured by planning obligations and CIL.

This would be a clear disincentive to landowners, who would simply choke off development land supply. Realistic premiums are required and inconsistency must be addressed.

- A lack of clarity on acceptable margins for Starter Homes and other LCHO products, which will attract sales risk. The proposed 6% 'affordable' developer's return is simply not sufficient.
- Endorsement of publication of viability submissions. Whilst the principle of transparency is rational, perversely this will only lead to 'sanitisation' of evidence to avoid prejudicing commercial sensitivities. It might make for simplicity, but it will also result in an increasing departure from market reality.
- The draft PPG provides the ability for LPAs to fix the terms for viability review mechanisms in Local Plan policies for multi-phase and 'large' sites. Will LPAs be equitable? Unlikely. At least the drafting does make clear that uplifted returns are to be shared. However, what constitutes 'large sites'?
- The proposed removal of statutory consultation on CIL setting (and revisiting) and replacement with a statement on 'appropriate engagement' by Charging Authorities for consideration at Examination. This will further disadvantage the industry in what is an inadequate process already. It sits diametrically opposed to the Government's objective to strengthen viability at the Plan-making stage.

The Ugly

This is reserved for the Government's thinly veiled threat to set developer contributions, including affordable housing requirements, nationally without recourse to negotiation.

Whilst not part of the consultation proposals, the Government points to this as a direction of travel. It is unclear whether the intention is to placate the left with a vague future that will never be realised, or if this represents a genuine proposal to centralise control in Whitehall. One thing it isn't is Localism.

05

Quantity and Quality: The NPPF and placemaking



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When you are passionate about shaping better places it is essential to have a planning policy framework which promotes quality of design as an overarching objective. Thankfully the revised consultation draft of the NPPF does this, introducing quality as a development imperative and retaining a dedicated Chapter 12 with the title: “Achieving well designed places”.

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Quantity and quality: The NPPF and placemaking

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The principles of placemaking are a narrative thread through the document, referenced in connection with:

- Density, and the effective use of land
- Town centre vitality
- Sustainable transport
- Healthy and safe communities
- Community engagement

The loss of the reference to Garden Cities has been lamented by some, but this rather misses the bigger point that design has been given greater prominence and emphasis within the proposed revisions to the Framework. I am optimistic that this represents a real step forward in enabling places of real quality to be delivered.

Density back on the agenda

Of particular interest to designers and developers alike is the new section on density. A sensible approach to increasing density in sustainable locations (such as around transport hubs) is proposed. A new reference to “minimum density standards” seeking a “significant uplift in the average density” is another notable feature. Whilst local authorities decide how to apply this policy in practice, there is a clear role here for designers in helping to articulate what is appropriate in relation to local context and the art of the possible.

Checks and balances

There are checks and balances for design quality within the draft Framework. A new reference to Building for Life as a means of guiding and testing good design has been introduced. The reference to Design Panels is also welcome. Early design and community consultation is also favoured in shaping places.

Inconsistencies

While I am positive about the great strides that the revised Framework makes towards embedding design quality, it is not without inconsistencies. For example the revised Framework now refers to: “Making effective use of land”, in place of “Delivering a wide choice of high quality homes”. I think the omission of “quality” from Chapter 11 is potentially unhelpful and contrary to the general theme of improving design quality.

A step forward

As house building is accelerated to address the housing crisis, Placemaking as well as the good quality design of buildings and spaces is essential. Quantity of development should not come at the expense of quality.

The ascendance of design and quality matters in this draft of the Framework suggests to me that the Government is acutely aware of this fact.

Grove Airfield Masterplan, Oxfordshire represents the principles of good placemaking



06

Change is constant: A Strategic Communications perspective on NPPF revisions



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Draft revised National Planning Policy Framework

Change is constant: A Strategic Communications perspective on NPPF revisions

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Stop all the clocks...

... but the reality is that change is constant and the new consultation draft of the NPPF, whilst introducing important new emphasis on early pre-application engagement, is more about evolution than revolution.

Amongst a series of changes and additions, the most striking is the potential introduction, for the first time in England, of engagement and the lack thereof as a material consideration in determining applications; “applications that can demonstrate early, proactive and effective engagement with the community should be looked on more favourably than those that cannot” (para 60).

Now many will tell you this is all about doing more. Turley Strategic Communications believes this is about being clever. The wording, focusing on the effectiveness and timing of the engagement rather than on a specific process or amount, means a well thought through strategic approach is going to be more valuable than a standard process applied again and again.

The Strategic Communications team is already agile; we navigate the most challenging regulatory and political landscapes to enable support for your development proposals. Public and stakeholder engagement in the plan making and decision-making processes is already a well established principle and is mainly only reinforced in the latest draft NPPF.

We have been successfully advising our clients for the past decade on early, proportionate and meaningful engagement with community, political and media stakeholders across the development world. We see the new emphasis as business as usual, but with a new focus.

07

National Planning Policy Framework: conserving and enhancing the historic environment



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Draft revised National Planning Policy Framework

Conserving and enhancing the historic environment: the heritage chapter of the NPPF

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World Heritage Sites

As flagged by the Ministry's accompanying note, the most obvious change to the heritage chapter (now 16) of the draft text emphasises the importance of World Heritage Sites and their international recognition and Outstanding Universal Value. Not a new concept, but purposely headlined in the opening paragraph of the chapter, no doubt in part to signal their importance as a planning consideration to UNESCO given concerns regarding perceived risk to World Heritage Sites from development proposals in London and Liverpool. Nevertheless as heritage assets in their own right, World Heritage Sites still don't attract the statutory protection afforded to Listed Buildings and Conservation Areas.

Great weight regardless of degree of harm

Otherwise, opportunity is taken to neatly align the application of national heritage policy with the application of the statutory heritage duties in light of heritage case law since the introduction of the Framework. The draft text emphasises that great weight should be given to the conservation of designated heritage assets regardless of the degree or amount of any potential harm. This reflects the 'considerable importance and weight' that must be given to the statutory duty seeking preservation of listed buildings and their settings even where the harm is less than substantial.

However, in reflecting this in policy which applies to all designated heritage assets, the same great weight also needs to be given to any degree of harm to World Heritage Sites, Scheduled Monuments, Registered Park and Gardens and Registered Battlefields, otherwise not the subject of statutory duties.

Opportunity has also been taken to break down the policy on approach to consideration of proposals affecting designated heritage assets so that the presently stated requirements for clear and convincing justification for harm and the exceptional and wholly exceptional instances for substantial harm now form a single explicit policy.

Less than substantial harm

The now tried and tested policy concept of substantial and less than substantial harm remains, and as now continues to trigger different considerations to be weighed in the balance. Notably in instances of less than substantial harm the present add-on of 'securing optimum viable use' to the requirement of weighing harm against public benefits, is dropped in the draft text.

Other policies remain largely unchanged although a typographical error has crept into the re-wording of what is presently paragraph 138 regarding the approach to loss of an element of an area-based designated asset and the associated triggering of policies on harm. No doubt this will be rectified in the final version.

08

New (and common) ground for the Duty to Co-operate?



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Draft revised National Planning Policy Framework

**New (and common) ground
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The 2010 coalition government wasted no time in dismantling the “unaccountable regional apparatus” from the planning system and replaced it with the Duty to Co-operate (DTC) through the Localism Act 2011. This legal test, requiring local authorities to engage constructively, actively and on an ongoing basis with one another to effectively deal with strategic, cross-boundary matters, is now a fundamental part of the plan-making process. Here, we provide an overview of how the process will change under NPPF V2 (and the Draft PPG Update).

At the outset, it’s important to recognise that there are no proposals to amend the Localism Act so changes to national policy and guidance will only supplement the DTC legislation. That said, there is a new proposal within the draft policy to require local authorities and elected mayors or combined authorities (with plan-making powers) to prepare Statements of Common Ground (SOCG) to document and evidence compliance with the DTC.

The intention to introduce SOCGs was announced within the Housing White Paper and “Planning for the right homes in the right places” (2017), with a view to increasing certainty and transparency and encouraging co-operation.

The other significant addition to national policy relating to the DTC is the need to have examined fully all other reasonable options for meeting need, including land within neighbouring authorities, before changing Green Belt boundaries.

Draft National Policy and Guidance

The SOCGs will have an important role in future plan-making:

- They are referenced within the revised presumption in favour of sustainable development (footnote 6 at paragraph 11) as a means of establishing how unmet development needs will be met.
- They are referenced within Paragraphs 26-29 which relate to maintaining effective co-operation. These carry forward original paragraphs 178-181 but reference is now made to the role of strategic plan-making authorities and the need for engagement with Mayors and combined authorities which do not benefit from plan-making powers. The “strategic plan-making authorities” will need to prepare and maintain one or more SOCG, documenting the cross boundary matters being addressed and progress in co-operation.

- They will be critical to the tests of soundness (paragraph 36):
 - “Positively prepared” – The strategy for meeting objectively assessed need *“is informed by agreements with other authorities”*.
 - “Effective” – “based on effective joint working on cross boundary strategic matters that have been dealt with, *rather than deferred, as evidenced by the statement of common ground*”. The Draft PPG Update explains that this means *“addressing matters as fully as possible... rather than deferring issues to subsequent plan updates”*, suggesting an increased emphasis on resolving strategic matters and discouraging policies for early plan reviews (albeit the draft guidance does acknowledge this may be required in certain circumstances).
- Para. 136 states that SOCGs will comprise important evidence in demonstrating whether or not neighbouring authorities can assist in accommodating cross-boundary needs, in relation to the assessment of whether exceptional circumstances exist to justify changes to Green Belt boundaries (i.e. demonstrating that all other reasonable options for meeting needs have been examined fully).

There is further detailed guidance within the Draft PPG Update on the preparation and scope of SOCGs:

- They should identify the geographical area; key strategic matters; authorities and additional signatories; governance arrangements; housing requirements and distribution (or process for agreeing it); record of agreements; and additional strategic matters still to be addressed.
- Elected mayors without strategic plan-making powers can be signatories where they are responsible for delivering specific strategic priorities, and there is encouragement for mayors to play a co-ordinating role in SOCG preparation.
- SOCGs can be a vehicle to identify the need for strategic cross-boundary infrastructure, and can support applications for investment and growth funds.

The 2017 consultations proposed that SOCGs be in place within twelve months of publication of NPPF V2. However, these transitional provisions have not been carried forward with the requirement brought into effect once the revised NPPF is published (albeit plans submitted within six months of the revised NPPF being published will benefit from a “period of grace” in which they are examined against policies from the original NPPF).

The 2017 consultations indicated that the Government will consider intervention by amending local development schemes where authorities which do not produce or maintain an SOCG, although this is not made explicit within the updated PPG.

Summary and Implications

Although the DTC legislation remains unaltered, there are implications for its operation through draft national policy.

SOCGs will play a significant role in plan-making in satisfying the DTC and tests of soundness. They will also be instrumental in demonstrating exceptional circumstances to justify Green Belt release.

There is an increased emphasis upon strategic matters being agreed rather than “deferred”, which appears to be more akin to a “duty to agree”, with the SOCG comprising the evidence base underpinning this.

The Government does not regard SOCGs as a significant change in practice in evidencing the DTC so have not proposed transitional arrangements, albeit there is a period of grace for plans submitted within six months of the NPPF V2 being published. This is unlikely to trouble authorities which have advanced agreed positions on strategic matters such as memoranda of agreement/understanding (e.g. Coventry & Warwickshire and Cambridgeshire & Peterborough) but the ability to prepare SOCGs over the next twelve months is likely to prove challenging where agreements are in their infancy or remain unresolved (e.g. the Greater Birmingham and Black Country Housing Market Area).

The SOCG concept received a lukewarm reception from local authorities following the 2017 consultations, with concern they would amount to a “duty to agree” and complicate plan-making. Conversely, private sector organisations broadly welcomed the concept which is likely to reflect the support amongst sections of the development industry for a more comprehensive approach to delivering strategic development needs.

It is clear that elected mayors and combined authorities will have a key role in preparing SOCGs. They will be responsible for their preparation where they are delivering a spatial development strategy (where they have plan-making powers) and otherwise are encouraged to take a facilitator role, which could prove invaluable in areas where agreement over strategic matters is some way off.

It is unclear what the sanctions will be for those authorities which fail to prepare SOCGs, save for being unable to submit their plans for examination. However, it appears that a significant incentive for advancing SOCGs will be enhanced prospects for securing funding for strategic infrastructure and growth.

09

The NPPF: is the thread even more golden?

First and foremost the reaffirmed focus on delivering a marked increase in housing is welcomed. This will help to address one of the most significant social sustainability issues affecting current and future generations.



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The NPPF: is the thread even more golden?

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If we could not only deliver more houses, but also deliver them in the most sustainable locations then we would take another major step forward in future proofing the pattern of development in England. However, the proposed NPPF revisions are not sufficient to ensure that all land is afforded the same consideration in terms of its sustainability credentials. It is a missed opportunity that the revised Framework does not acknowledge, for example, that building in the Green Belt may sometimes represent the most sustainable option.

There are positives and a few negatives which we have summarised:

Net gains across the three pillars of sustainable development

In accordance with the Government's recently released '25 Year Environment Strategy' we see numerous references to the planning system taking a strategic overview to deliver net gains across the three pillars of sustainable development.

A review of both documents would appear to suggest that the principle of achieving biodiversity net gains could be extended to cover wider natural capital benefits such as achieving an overall improvement in areas such as flood defence, transportation and recreational space to compensate any impacts of development where it is needed. This is an established concept that when applied could utilise tools such as SEA and EIA to seek these net gains at a local authority level where large scale development is, inevitably, resulting in some environmental impacts through economic growth or new development.

Health and wellbeing

It is good to see Health and Wellbeing issues given more prominence and this encourages further discussion with regards to the development of metrics to analyse and value the social benefits from projects and design interventions. Step forward Social Value and indeed this is already forming part of local authority assessments of benefits from regeneration and development where they control land and property assets. More on this in due course I am sure.

Increasing importance of air quality

An increase in the importance of local air quality is a necessary and welcome amendment and we are starting to see how this can positively shape our places and cities as we replace vehicles with walking and cycling routes. Our city buildings will also be taller as we seek greater densities and hence microclimate and daylight/ sunlight issues will need to be considered more thoroughly.

Sustainability and design

There is an interesting amendment to Paragraph 130 which recognises that great weight can be afforded to applications where designs promote high levels of sustainability. This brings interesting opportunities to explore further.

National Technical Standards

Finally, a continued and justified recognition of the significant role that the planning system can make in mitigating and adapting to climate change. A replacement of the Zero Carbon Standard with the National Technical Standards provides some clarity however experience confirms that this issue of local sustainability standards still remains very unclear particularly given that the national standards only really considered residential buildings. We also have the conundrum of the London Plan which is promoting its own sustainability standards (which are very welcome) and to which the market and our clients are responding positively. I suspect this issue will be debated again quite soon given the impending review of Building Regulations and once our relationship with EU policy has been confirmed.

Sustainability was described as the golden thread that runs through the Framework when the NPPF was first published in 2012. The revisions seek to retain and enhance this "golden thread" and we look forward to its implementation.

10

Town centres, retail and leisure: left on the shelf?

The character of retailing has changed substantially in the 6 years since the NPPF was first published. Amazon is now the UK's 5th largest retailer according to Verdict and the continuing shift in consumer shopping and leisure habits has meant the High Street continues to change fast.



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Town centres, retail and leisure: left on the shelf?

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And so the possible changes in the draft NPPF have been awaited with great interest in the retail and leisure industry...

In terms of the headlines:

- The general thrust of policy has not changed; the town centre first approach remains.
- In terms of the sequential test, availability of more central sites “within a reasonable period” now needs to be considered. This has not been defined and care is needed for schemes not in a town centre.
- Despite important Secretary of State decisions, the approach to ‘disaggregation’ in the sequential test has not been further clarified by the draft NPPF.
- In terms of the impact assessment, out-of-centre office developments are no longer to be subject to an impact assessment. Perhaps a response to encouraging new offices in light of substantial losses via PDR?
- As before, a hotel use is not included within the glossary’s definition of a retail or leisure use, and hence out-of-centre hotel developments are not subject to an impact assessment.

As such, it is largely ‘business as usual’ in terms of the tests to be applied when promoting retail, leisure, hotel and other town centre type schemes, but we think caution is needed in the proposed change to the sequential test wording – read on.

Reasonable period

Paragraph 87 of the draft NPPF now states the following, with the new wording underlined:

“...main town centre uses should be located in town centres, then edge of centre locations; and only if suitable sites are not available (or expected to become available within a reasonable period) should out of centre sites be considered.”

Whilst there is no definition of ‘reasonable’ contained within the draft text, it may relate to the specific development programme of a proposed scheme, or indeed it may be that occupier requirements set these parameters based on their operational model. The probability is that it will need to be defined on a case-by-case basis and so could be a renewed area for the courts to decide.

This needs to be set within the context of the Mansfield judgement, where the identity and personal or corporate attitudes of a particular retailer or developer were less relevant. This being said, in terms of the practicalities of the sequential test, experience has taught us that it can be more straightforward to robustly address the test with a named operator on board.

Overall

It seems the biggest effort in revising the NPPF has gone into other matters, housing in particular. So, the thrust of guidance for retail, leisure and town centre uses is largely left unchanged.

Despite the draft NPPF not attempting to reflect the significant changes taking place in the retail and leisure sectors, there is at least comfort in being familiar with the key tests we have to deal with in promoting sites and schemes.

Two areas where Turley will be watching closely are new cases defining what a ‘reasonable period’ means in practice, but also whether the accompanying NPPG tightens up on how MHCLG wants the sequential test (and possibly impact test) applied.

11

Is neighbourhood planning shaping better places?

Following the coalition government putting in motion a seismic shift from regional to local planning in 2012 with the abolition of Regional Plans, neighbourhood planning has been high on the agenda ever since. The consultation draft of the NPPF seeks to fulfil this and firmly inscribe neighbourhood planning in the national policy framework.



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Is neighbourhood planning shaping better places?

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Community involvement in the planning process is key to shaping better places and delivering high quality development, however is this best achieved through the current neighbourhood planning approach?

As part of the re-write of the NPPF the status of Neighbourhood Plans is to be further elevated, they will now enjoy the same plan making privileges as Part 2 Local Plans: able to allocate sites, release land from the Green Belt (where the need for such changes has been established by Strategic Plans) and set out non-strategic policies. We are also now seeing Local Plans delegate the responsibility for allocating sites at settlements where there are emerging Neighbourhood Plans.

If we are to create better, more attractive places and enhance our towns and villages for both existing and future residents, we have to ensure that we are locating development in sustainable locations, which are deliverable and will provide the greatest number of benefits.

If Neighbourhood Plans are to have the same functions of more traditional Local Plans, then it is essential that they reflect sound land use planning principles, and are based on robust evidence and robust decision making processes.

Without adequate resourcing, there is no certainty that neighbourhood planning is empowering our communities to make the most sustainable choices when allocating sites for new homes. We must avoid a situation where sites are selected based on personal opinion rather than sustainability principles and deliverability. This is hindered by the absence of funding for critical parts of the evidence base, such as Sustainability Appraisal.

The Government should therefore focus on giving communities the necessary tools to ensure Neighbourhood Plans exceed the low bar of the 'basic conditions' test, and plan for truly sustainable development that will contribute to shaping better places and be ambitious in delivering quality design, which will leave a legacy for future generations.

12

NPPF: Stand and deliver

The Government's requirement for authorities to demonstrate a five year housing land supply and the resultant presumption in favour of sustainable development has been a hot topic of debate, and large contributor to the delivery of homes since the National Planning Policy Framework (NPPF) was published in 2012. Proposed changes to this requirement are therefore a key consideration for whether the draft NPPF will be successful in boosting or stifling the delivery of new homes.



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Stand and deliver



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The Housing White Paper (HWP) raised the Government's focus on the actual delivery of new homes and not just on future supply. Those proposals are retained in the draft NPPF and will effectively create two triggers for the presumption in favour of sustainable development:

- where future supply falls below five years, and
- where past delivery in the previous three years has not delivered enough new homes.

Whilst we agree that there must be a focus on seeing the delivery of new homes on the ground, our concern is that the bar has been set far too low and the draft NPPF runs the risk of setting a benchmark for delivery that falls well below its aspirations.

Raising the bar on delivery

The headline figure under draft NPPF (paragraph 75 with its accompanying footnote 30) sets a requirement for authority's to deliver at least 75% of its housing requirement over the previous three years before the presumption in favour of sustainable development will be triggered.

However, when one looks further at Annex 1 (paragraph 211), the delivery test is actually proposed to rise from an initial very low base of only 25% delivery of an authority's housing requirement in the three years preceding November 2018; and 45% in November 2019, before settling and continuing at 75% from November 2020.

This settled level is higher than the previous figure of 65% muted in the Housing White Paper and so is a welcome improvement, but this does not go far enough. The concern here is that the Government is proposing to set a very low bar. The need to phase in its introduction is appreciated; however, initially setting the bar at 25% will not encourage housing delivery in the short term. Even by November 2020, the threshold rising to 75% will not go far enough to boost delivery. The Government's ambition should be much higher as there is a danger that 75% delivery will become the benchmark for local authorities to achieve. The ambition should be delivering no less than the full housing needs in a particular area.

The Housing Delivery Test also sets out additional requirements and measures. From November this year, if an authority has only delivered 95% of its required housing, it will need to publish an action plan to understand and address its delivery record. Further guidance on the publication and content of an action plan is set out in the draft Planning Practice Guidance (PPG). The Action Plan has the potential to be a useful tool if it then leads to the implementation of a series of positive measures to address the reasons for past under-delivery but, we are concerned that there is discretion on the need to consult on the action plan and so there is potential for actions to be displaced from those the development industry actually considers are necessary to unlock delivery and boost supply.

Where greater levels of under-delivery occur (the delivery of only 85% of an authority's housing requirement from November this year), a 20% buffer on a council's five year supply requirement will be applied. However, many authorities will already have a 20% buffer in place, so this will do little more to boost the delivery of more homes. We do however welcome the clarity the draft NPPF provides on when a 20% buffer will be applied.

Stand and be counted

The Government proposes to give local authorities the option to have their housing land supply agreed on an annual basis, and fixed for a one-year period. This essentially replicates the existing system in Wales.

Where authorities seek agreement on their supply, the Government proposes that a 10% buffer on the supply should be provided for. Additional guidance in the accompanying draft PPG appears to confirm that this would be an additional buffer for those authorities who would currently apply only a 5% buffer and, for those authorities who have a record of under delivery (based on the delivery test), a 20% buffer must continue to be applied.

Whilst agreeing supply on an annual basis will provide greater certainty, there needs to be detailed and robust scrutiny of supply. Our experience is that an authority's supply figure is often only properly tested at S78 appeals and there is little scrutiny in other forums, including Local Plan Examinations. There is a danger that an authority's supply figure will be subject to very light-touch testing and will then be immune from challenge for the next year. This may delay investment decisions on sites which have the potential to provide additional sustainable growth, and close off the supply of sites allow at appeal, which has been a significant contributor to supply in many local authorities. It is imperative that steps are put in place to ensure proper scrutiny is given to a Council's claimed supply if this measure is confirmed.

Clarity on what must be delivered

The Government has largely delivered on a previous HWP promise to provide more guidance on how five year land supply should be calculated.

In terms of the starting point, the Government is moving forward with its standardised methodology.

The delivery test will now set the benchmark for when a 20% buffer must be applied with the draft NPPG removing reference to the term 'persistent under delivery'. This will remove the considerable debate on whether 5% or 20% buffer should be applied, a debate which can be fundamental to many authorities' ability to demonstrate a sufficient housing supply. However, whilst this measure will create certainty, there is the potential that it will stifle supply – for example, where an authority has significantly under delivered in the past but has managed to just achieve the 85% delivery test requirement in the past 3-years, only a 5% or 10% will need to be applied*. This example is hardly a good record of delivery, and such a record would normally result in a 20% buffer being applied under the current NPPF.

The draft PPG now makes clear that the buffer must be applied to any shortfall in delivery as well as to the initial housing requirements – this confirmation is welcomed and, whilst still in draft, should send a clear message to local authorities on the correct approach.

Some additional clarity has been provided on whether any shortfalls in delivery should be made up for in the five year period or whether those shortfalls can be spread over the remaining plan period (methodologies commonly known as 'Sedgefield' and 'Liverpool'). The PPG confirm that authorities should make up shortfalls in the first five years (Sedgefield) but the latter (Liverpool) method is capable of being applied if established through a plan examination. If confirmed through a plan examination then our view is that it will be difficult to challenge this approach at appeal.

The definition of 'deliverable'

The draft NPPF glossary includes a new definition of 'deliverable' which is crucial when considering what sites can count towards an authority's five year supply. Of interest, the updated definition confirm that sites with outline planning permission, permission in principle, allocated in the development plan or identified on a brownfield register should only be considered deliverable where there is clear evidence that housing completions will be begin on site within five years.

This is not reflective of the findings in the recent St Modwen Court of Appeal judgement** that confirmed a more lenient approach of showing that such sites were merely capable of delivery in the five year period. This is welcome recognition by the Government that, just because a site has outline planning permission or is identified in a development plan, it can still take a considerable time for such sites to actually deliver new homes.

By placing the onus back on authorities to provide clear evidence that such sites will deliver housing in the five year period may impede some local authorities' ability to demonstrate a five year supply in the short term, however, once bedded in, it will ensure a far greater prospect of sites that are being claimed to be deliverable in the five year period, actually seeing delivery of new homes on the ground in that period.

*A 10% buffer will be required if the authority choses to 'confirm' its supply through an annual position statement

**St Modwen vs Secretary of State [2017] EWCA Civ 1643

13

Build to Rent and the NPPF: Breaking new ground?

The much heralded revisions to the NPPF were published at the beginning of the month, with a strong emphasis on housing delivery. Within this there is a clear recognition that a multi-tenure approach is required in order to meet challenging housing targets, with Build to Rent (BtR) placed firmly in the spotlight.



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Build to Rent: Breaking new ground?

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Whilst the BtR sector has been quietly getting on with delivering over the last 12 months since the Housing White Paper consultation (Planning and affordable housing for Build to Rent, February 2017), the recognition of the important role of the sector within the draft NPPF is a landmark moment. It is all the more notable in the context of the Government's continued focus on facilitating home ownership.

However, the proposed amendments won't come as a surprise for many in the industry following the Housing White Paper consultation when an overwhelming majority of respondents supported the specific recognition of "Build to Rent" and "Affordable Private Rent" as having a critical role to play in solving our housing crisis. That consultation prompted debate on the approach to Affordable Private Rent, covenants and claw-backs to ensure units remain for private rent, and longer tenancies.

So how much has actually made it into the draft revisions to the NPPF?

NPPF Revisions...

The draft NPPF now includes BtR as a defined term within the glossary, describing the use as:

"Purpose built housing that is typically 100% rented out. It can form part of a wider multi-tenure development scheme comprising either flats or houses, but should be on the same site and/or contiguous with the main development. Schemes will usually offer longer tenancy agreements of three years or more, and will typically be professionally managed stock in single ownership and management control."

Further, the differences between the BtR investment, delivery and operating model and more traditional forms of housing have been recognised through its exemption from draft paragraph 65 (which outlines a requirement for at least 10% affordable provision for major housing developments) and the inclusion of Affordable Housing for Rent within the Glossary (also referred to as Affordable Private Rent).

This bespoke solution will be welcomed by the industry in resolving what can be a time-consuming battle with Local Planning Authorities. It cuts away the 'red tape' requirement for BtR applications to repeatedly secure deviation from existing Local Plan affordable housing policies by exhaustively demonstrating that traditional forms of affordable provision simply do not work, for various reasons, within BtR schemes.

Revisions to the Planning Practice Guidance...

Hot on the heels of the NPPF consultation, draft updates to the Planning Practice Guidance (PPG) were released for consultation on 9 March and contain much detail relating to BtR.

The proposed new text encourages Local Planning Authorities to consider the need for homes in the private rented sector as part of their evidence base, providing a platform for Local Plans to proactively support BtR development as distinct from other tenures. This will be important to facilitating delivery.

However, it is unclear how these requirements will be interpreted by LPAs; will they now start to allocate sites for BtR or specify areas within city centres/ regeneration sites where such uses will be supported?

Such policy support would undoubtedly help BtR developers and investors when competing for sites with

other uses including 'build for sale' or purpose built student accommodation, but may be a step too far for most authorities still grappling with the concept and potential of BtR. It does however reflect a more sophisticated approach to the assessment of housing need, moving away from crude and purely numerical measures and towards a greater appreciation of the qualitative dimensions of need.

As set out above, the draft NPPF has introduced Affordable Housing for Rent as a defined tenure, with the draft PPG elaborating to confirm that 20% is generally a suitable benchmark for the level of Affordable Private Rent (APR) homes to be provided (and maintained in perpetuity) at an average maximum of 80% of open market rents in any Build to Rent scheme. These changes represent a shift to move more closely in line with the Greater London Authority's (GLA) approach in London, albeit not directly mirroring the draft London Plan and GLA's Affordable Housing SPG.

Importantly, the draft PPG wording constitutes guidance, not policy. It also includes flexibility for viability to be considered on a case-by-case basis and for the requirement to be met by

other routes (including commuted payments). This flexibility is crucial to the success and growth of the sector, especially if BtR is to deliver in the regions. In our experience, the blanket 20% APR approach proposed in draft PPG would render many sites unviable for BtR, or unable to compete for land with alternative uses, so maintaining inherent flexibility at the application stage is vital.

A forthcoming comment piece by Matt Spilsbury (Head of Turley's Development Advisory service) will provide further detail on implications for BtR viability assessment arising from the proposed revisions.

Finally, the PPG also acknowledges that it is for Local Planning Authorities to decide whether national space standards should apply to BtR developments. Whilst this doesn't go as far as some would have hoped, our view is that the need to consider BtR developments differently in this respect is implied.

We do however have continued concerns that prescriptive space standards can stifle innovation in design and lead to the creation of standard products which do not respond to what end users want and how BtR dwellers may live their lives. There is a strong case for letting the market decide how best to meet the needs of consumers in a sector where the competition for 'customers' will continue to grow as the market matures. Brands and operators will need to stand out from the crowd and this will create innovation in design. Product standardisation, in any form, is to be avoided in our view.

Summary

The changes may not work for all, or go as far as some would have liked in providing the certainty to facilitate investment.

However, the elevation of BtR to secure specific policy references in the draft NPPF, and heightened visibility within the draft PPG, represents valuable recognition from Government of the important role played by BtR in delivering ongoing and future housing growth.

The clear message to the industry is that the Government welcomes the sector with open arms. Build to Rent is no longer 'emergent'. It has arrived, it is here to stay, and has firmly entered the planning sphere.

LPA's now have a specific diktat to ensure BtR features in plan-making, with supportive policies tailored to facilitate, rather than deter, investment. The industry must actively ensure LPA's are held to this.

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The need for planning parity in 'building a Britain fit for the future'

Over the last twelve months two words have dominated the political landscape; 'Brexit' and 'equality'. As we move forward into a post-Brexit economy it is therefore disappointing that the government has failed to recognise the important role the planning system has to play in 'building a Britain that is fit for the future' (the Government's name for the UK's Industrial Strategy). The revised draft National Planning Policy Framework (NPPF) removes any emphasis on ensuring that local planning authorities recognise the equal importance of planning effectively for both their housing and employment needs.



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Draft revised National Planning Policy Framework

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Revising the NPPF presented the ideal opportunity to address this imbalance following on from the publication of the Industrial Strategy White Paper last November. More than simply a missed opportunity, this signifies a lack of political appetite to provide an effective planning framework for identifying and delivering new employment sites. Unless of course the site is to be used for one of the Industrial Strategy's 'high-value' businesses.

This policy vacuum has particular relevance to key growth sectors such as logistics, which form the 'backbone of British industry'[1]. Logistics development facilitates the local deliveries and international trade underpinning all other sectors within our economy – it really matters. In Turley's 2015 research paper 'Delivering the Goods', we reported that the logistics sector generated around £100bn in GVA across the UK. Just two years later, the Freight Transport Association reports that this has increased to over £124bn, equating to 11% of the UK's non-financial business economy[2].

The canary in the coal mine

It is therefore essential that the revised NPPF is geared up to positively influence local plan policies and land allocations to support key growth sectors such as logistics. However, the 'canary in the coal mine' is evident early on in the draft revised NPPF with a proposed watering down of the economic objectives of the planning system in paragraph 7. Whilst it recognises that the planning system should 'help build a strong, responsive and competitive economy by ensuring that sufficient land of the right types is available in the right places at the right time', the revisions remove the need for the planning system to identify and co-ordinate development requirements as part of this.

So what clarity and direction does the draft revised NPPF provide on how to build a strong and competitive economy? The answer simply is very little. Planning policies must still identify strategic sites to meet anticipated needs over the plan period, but no clarity is provided on how this should be identified, maintained and delivered through the local plan process. This provides no clear policy impetus for local plans to facilitate timely changes in market demand within dynamic sectors such as logistics, whose development requirements are often influenced by local, national and international priorities.

Other than a brief mention within the draft National Planning Practice Guidance (NPPG), there is still no requirement within the draft revised NPPF for a joint Strategic Housing and Employment Land Availability Assessment to be undertaken during the plan making process, or for local authorities to identify a mixture of small and large sites to meet the needs of end users. In stark contrast to the proposed housing policies outlined in paragraphs 74-76 of the draft, local authorities are also not required to maintain and review annually a five year supply of employment land or plan for a 'margin of choice' to their land demand forecast calculations. Planning for this additional amount of land would ensure a reasonable choice of sites for businesses and developers and allow for delays in sites coming forward.

The impact of not planning effectively for employment needs is that it stifles the opportunity for the UK to prosper. Not only through denying developers the opportunity to regularly promote land through the local plan process for their pipeline of end users, but also by limiting the options available for existing companies to expand onto readily available sites. Stifled opportunity also comes in the form of the UK missing out on overseas investment as inward investors struggle to find the land they need for their new business requirements and settle for locations abroad. The simple equation is that without the sites, our businesses will struggle to grow and the UK will not only run the risk of missing out on overseas investment but also on all the associated jobs that this could bring.

Levelling the playing field

Whether we look at its current or draft revised form, the NPPF is not sophisticated enough to respond quickly to the market forces that govern the dynamics of high growth sectors such as logistics and does not provide the tools for plan making to be 'sufficiently flexible to adapt to rapid change' (paragraph 11) and 'changes in economic circumstances' (paragraph 83d).

The draft revised NPPF recognises in paragraph 20 that 'each local authority should include those policies and strategic site allocations necessary to provide the homes and workplaces needed for the area'. To do this effectively, the revised NPPF should be clear in requiring local planning authorities to undertake a joint assessment of their housing and employment needs, recognising their interdependence. As with planning for housing growth, local authorities should also be required to plan for a five years' supply of employment land, which should be reviewed annually or with 'trigger mechanisms' for review in place to ensure adequate supply is identified to meet market demand.

Where the draft revised NPPF requires planning policies and decisions to make 'effective use' of land it should also provide a mechanism to ensure that this does not prejudice the growth of businesses within sectors such as logistics whose requirements are changing as the sector continues to innovate and grow. An employment site which has little market interest now may see this change in the future and planning policy should not provide an easy opportunity for such sites to be lost to residential uses.

Paragraph 72 outlines the circumstances in which it would be acceptable for housing sites to come forward on sites which are not allocated and outside settlement boundaries. To level the playing field, it is crucial that an equivalent policy is put in place outlining the circumstances for employment sites to come forward on 'exception sites' and the level of investment, GVA and job creation should be key considerations within this policy.

Whilst it is positive that the draft NPPG recognises the importance of joint working across borders when planning for business needs more can be done to level the playing field between housing and employment policies in the draft NPPF. The changes aforementioned would ensure that both housing and employment needs are given equal importance within the plan-making process and would be a step in the right direction to ensuring that national policy provides the mechanisms that British industry deserves to enable it to build a Britain that is fit for the future.

[1] David Wells, Chief Executive, Freight Transport Association

[2] Freight Transport Association Logistics Report, 2017



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