



## National Planning Policy Framework

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- On 27 March 2012, DCLG published the final version of the [National Planning Policy Framework](#) (NPPF). It came into effect immediately, superseding the 2011 draft and all other planning guidance (except on waste).
  - Local Planning Authorities have twelve months to revise their plans to take account of the NPPF.
  - This note covers the presumption in favour of sustainable development. Topics such as housing, wind farms, the countryside, the green belt and so on are covered in separate notes.
  - Critics, led by the National Trust and the Campaign to Protect Rural England, accused the draft document of handing over too much power to developers, reducing protection for rural England.
  - However, they are more satisfied with the final version of the NPPF.
  - Supporters of the NPPF welcome the radical simplification of planning guidance and argue that it contains the necessary safeguards, without restricting needed investment.

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## 1 Overview

The Government replaced all existing planning guidance – except on waste - by the publication of the final version of the NPPF on 27 March 2012.

Planning guidance is important because it can be a “material consideration”. A planning application has to be determined in accordance with the development plan “unless material considerations indicate otherwise”.<sup>1</sup> A document published in 2004 explains more about material considerations:

21. The Courts are the arbiters of what constitutes a material consideration. All the fundamental factors involved in land-use planning are included, such as the number, size, layout, siting, design and external appearance of buildings and the proposed means of access, together with landscaping, impact on the neighbourhood and the availability of infrastructure.

13. The Courts have also held that the Government’s statements of planning policy are material considerations which must be taken into account, where relevant, in decisions on planning applications. These statements cannot make irrelevant any matter which is a material consideration in a particular case. But where such statements indicate the weight that should be given to relevant considerations, decision-makers must have proper regard to them. If they elect not to follow relevant statements of the Government’s planning policy, they must give clear and convincing reasons (E C Grandsen and Co Ltd v SSE and Gillingham BC 1985).

14. Emerging policies, in the form of draft policy statements and guidance, can be regarded as material considerations, depending on the context. Their existence may indicate that a relevant policy is under review; and the circumstances which have led to that review may need to be taken into account.<sup>2</sup>

Despite the importance of planning guidance, there is no statutory requirement for any particular parliamentary or legislative procedure before planning guidance comes into force.

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<sup>1</sup> *Planning and Compulsory Purchase Act 2004* s.38(6)

<sup>2</sup> ODPM, *The Planning System: General Principles*, 2005

The draft NPPF, published in July 2011, was attacked by the National Trust and others as a developers' charter that would allow building all over the countryside, unless it had special protection. They also criticised the provisions requiring local planning authorities to grant planning consent "where the plan is absent, silent, indeterminate or where relevant policies are out of date". The publicity campaign was misleading and the draft NPPF contained more safeguards than the critics allowed.

The final version of the NPPF has been greeted as a considerable improvement on the draft.

However, the reaction to both documents has been far too quick. It takes time to work out the implications of planning guidance. Some points may have to be tested in the courts. The main issue is that we have moved from having a great deal of planning guidance (1300 pages apparently) to a very little (around 50 pages plus technical guidance for minerals and for flooding, along with existing planning guidance on waste). This change will leave more scope for judgement by local planning authorities. Disappointed applicants will still have a right of appeal to the Secretary of State. The role of planning inspectors in interpreting the guidance will be crucial.

## **2 The presumption in favour of sustainable development**

### **2.1 Definition of sustainable development**

The section on Achieving Sustainable Development contains several definitions of sustainable development. The first one relates to a UN resolution; the second one states that the policies in the NPPF constitute the Government's view of what sustainable development means for the planning system; the third definition relates to the balance between the economic role, the social role and the environmental role.

#### Achieving sustainable development

International and national bodies have set out broad principles of sustainable development. Resolution 42/187 of the United Nations General Assembly defined sustainable development as meeting the needs of the present without compromising the ability of future generations to meet their own needs. The UK Sustainable Development Strategy Securing the Future set out five 'guiding principles' of sustainable development: 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.

6. The purpose of the planning system is to contribute to the achievement of sustainable development. The policies in paragraphs 18 to 219, taken as a whole, constitute the Government's view of what sustainable development in England means in practice for the planning system.

7. There are three dimensions to sustainable development: economic, social and environmental. These dimensions give rise to the need for the planning system to perform a number of roles:

- an economic role – contributing to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation; and by identifying and coordinating development requirements, including the provision of infrastructure;

- a social role – supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment, with accessible local services that reflect the community’s needs and support its health, social and cultural well-being; and
- an environmental role – contributing to protecting and enhancing our natural, built and historic environment; and, as part of this, helping to improve biodiversity, use natural resources prudently, minimise waste and pollution, and mitigate and adapt to climate change including moving to a low carbon economy.

8. These roles should not be undertaken in isolation, because they are mutually dependent. Economic growth can secure higher social and environmental standards, and well-designed buildings and places can improve the lives of people and communities. Therefore, to achieve sustainable development, economic, social and environmental gains should be sought jointly and simultaneously through the planning system. The planning system should play an active role in guiding development to sustainable solutions.

9. Pursuing sustainable development involves seeking positive improvements in the quality of the built, natural and historic environment, as well as in people’s quality of life, including (but not limited to):

- making it easier for jobs to be created in cities, towns and villages;
- moving from a net loss of bio-diversity to achieving net gains for nature;
- replacing poor design with better design;
- improving the conditions in which people live, work, travel and take leisure; and
- widening the choice of high quality homes.

10. Plans and decisions need to take local circumstances into account, so that they respond to the different opportunities for achieving sustainable development in different areas.

## **2.2 The Presumption in favour of sustainable development**

The main presumption comes in paragraph 14. It is reworded from the presumption in the draft, but the main features are still there:

14. At the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking.

For plan-making this means that:

- local planning authorities should positively seek opportunities to meet the development needs of their area;
- Local Plans should meet objectively assessed needs, with sufficient flexibility to adapt to rapid change, unless:

— any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or

— specific policies in this Framework indicate development should be restricted.

For decision-taking this means:

- approving development proposals that accord with the development plan without delay; and
- where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:

— any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or

— specific policies in this Framework indicate development should be restricted.

### **3 Implementation**

Annex 1 covers implementation. The NPPF is a material consideration immediately. Within 12 months, planning authorities should update their plans to take account of the NPPF.

214. For 12 months from the day of publication, decision-takers may continue to give full weight to relevant policies adopted since 2004 even if there is a limited degree of conflict with this Framework.

215. In other cases and following this 12-month period, due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).

216. From the day of publication, decision-takers may also give weight to relevant policies in emerging plans according to:

- the stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);
- the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and
- the degree of consistency of the relevant policies in the emerging plan to the policies in this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).

It will take time to see what this means in practice.

### **4 The Critics Mollified**

The National Trust led a vocal campaign against the draft NPPF but was happy with the final version:

We welcome improvements made to the final National Planning Policy Framework (NPPF), published today.

Important changes include a better definition of sustainable development and a recognition of the importance of countryside outside designated areas. (...) Dame Fiona Reynolds, Director-General of the National Trust, said:

'There are a number of important changes that have been made to the draft, responding to concerns that we and others raised. These include:

- the primacy of the plan is confirmed, ensuring that development must be consistent with the plan
- a better definition of sustainable development, based on the 2005 sustainable development strategy
- the insertion of references to the use of brownfield land and the need to promote town centres
- removal of the incendiary default 'yes' to development where there is no plan
- reference to the 'intrinsic character and beauty of the countryside', recognising the importance of countryside outside designated areas
- confirmation that existing plans will remain in force while the new NPPF is introduced, and that there will be a one-year transition for the preparation of new plans

'All these changes improve the document and give it a better tone and balance.'<sup>3</sup>

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<sup>3</sup> National Trust Press Release, *Government listens to public concerns on planning*, 27 March 2012