

## **Annex A**

### **1 Do you have any comments on the text of Chapter 1?**

There is no question in the consultation that looks holistically at the NPPF. So we will comment here on the overall document.

We recognise that there are significant pressures to improve economic performance and to increase the amount of housing delivery nationally. We also recognise that solutions to improve these can be difficult and that tough choices may have to be made if nationally economic performance and housing delivery are to reach the build rates Government have set.

The Housing and Planning White Paper recognised that there were different problems facing different parts of the country and indicated that there would be different solutions needed. We are however extremely disappointed that the recognition given in the White Paper to different solutions being needed in different spatial areas have not been carried forward into this revision.

For example there is no recognition in this for large areas of the country where the financial challenges of trying to make development viability stack up without any additional requirements being added in is itself the biggest challenge that we face. For many areas significant and concerted efforts are being made by Councils to simply get developers interested in building. Proposals such as the potential to set targets nationally for affordable housing do not assist and are retrograde steps that could have major impacts on viability.

The NPPF is supported by ongoing research such as the current look at why build out rates are low being overseen by Oliver Letwin MP. This is focussing on high demand areas. Build out rates are also an issue in low demand areas and we ask for that research to be extended to areas such as Pendle.

There is little of any weight in the revision that will encourage developers to bring their development forward in a timely fashion and that will prevent land banking that is a substantial problem across the country. For example the proposals miss the opportunity to put some form of policy in place that would prevent a renewal of an application if development has not started. There are no tangible tools in it to put pressure on the development industry who have an equal role to play in the provision of housing as do Local Planning Authorities.

The White paper also recognised that the constant tinkering and bureaucracy surrounding Plan making has been significantly responsible for slow delivery of Plans and that the process needed to be streamlined. The attached table shows the level of new evidence that will need to be produced for future Plans. The NPPF will slow down Plan production with the additional burdens placed on evidence preparation, as happened with the first NPPF, as Councils will be concerned to ensure that their Plans are not found to be unsound at examination. Developers will exploit any shortcomings in the evidence base, particularly where the NPPF is not clear eg link between housing levels and employment aspirations, and attempt to put pressure on Councils in the Plan making process

1	Para	Issue	Resource
2	14	Produce numbers for each Neighbourhood Plan	Largely done with our spatial distribution paper
3	21	Establish what policies are strategic	Additional Staff Time
4	29	Statement of Common with other LAs	Additional Staff Time
5	34	Contributions from specific sites to be identified in Plans providing it does not make a development unviable. Set out when contributions will be reviewed	Additional time either by staff or consultants preparing financial evidence
6	36	May have to take unmet need from other Authorities	Probably not applicable
7	56	Have to agree pre-commencement conditions	The DM team as a whole will be affected by this and it will cause more work
8	59	New requirement to pro-actively monitor the implementation of consents	Will need more staff were we to be pro-active
9	61	Housing needs assessment to be carried out although how this would happen is to clear. It will include assessing the types of all housing to be delivered including the new definitions of affordable housing	LPA and consultants
10	69	Ensure that 20% of sites to be allocated are less than 0.5ha	Assessment of sites and proactive engagement with landowners of smaller plots
11	76	Yearly examination of five year supply with SoS agreeing it	LPA to provide the assessment and deal with the questions form the SoS
12	77	New housing delivery test	
13	77	Production of an Action Plan for delivery under 95% of housing requirement	LPA to resource internally
14	96	Produce evidence on plausible malicious threats	LPA with police and other agencies
15	128	Implement design review arrangement	LPA to instigate
16	CIL Revision	Align detailed infrastructure delivery schedules and costs in line with CIL requirements	LPA to develop more detailed schedules

The planning system is now overtly complex with very inflexible and detailed guidance layered with an almost unfathomable array of legislation and prescriptive policy as well as Guidance. The proposed changes do nothing to simplify this. They will however add significantly to the cost base for producing the evidence to support Plans and will increase the amount of staff time needed to prepare that evidence.

**2 Do you agree with the changes to the sustainable development objectives and the presumption in favour of sustainable development?**

The changes made to the actual objectives do not substantially alter the thrust of what was in place previously. The replacement of the word “role” with objective does little to alter the planning balance that three objectives seek to achieve..

The text in paragraph 8 needs to be redrafted though. As it reads in its current form it would allow for significant harm to occur in one or two of the objectives but it could then allow for development to come forward if there were substantial gains in the third area thus resulting in an overall net gain. That net gain need only be marginal for a development to pass the test. The text needs to say that net gains need to be aimed for without detrimental impacts to the other two objectives.

The environmental objective of using natural resources prudently is the same as in the current version but there are parts of the proposed NPPF that divert from it such as the general thrust of allowing any development in rural areas that need not be linked to sustainable transport.

**3 Do you agree that the core principles section should be deleted, given its content has been retained and moved to other appropriate parts of the Framework?**

Yes. The structure where parts of the NPPF had to be considered and other parts not is poor in the current version and the changes are supported.

**4 Do you have any other comments on the text of Chapter 2, including the approach to providing additional certainty for neighbourhood plans in certain circumstances?**

The presumption at part 11 needs to be clarified.

11d states that where there are no relevant development plan policies , or the policies which are **most important** (*emphasis added*) for determining the application are out of date.... then permission should be granted unless i or ii apply.

The implication here is that all policies need to be considered and that a decision maker then needs to assess those which are the most important, even if they

are all important. It is difficult to understand how this assessment process would take place. For example if 6 or 7 policies are relevant, which for larger schemes is often the case, how is a decision maker to decide which are the most important?

For some policies the Framework clarifies when a policy is out of date. For example, at para 75 where there is not a five year supply of land 11d kicks in. There is no equivalent text for other policies that a LP may contain such as open space, highways etc that would dictate that a policy is out of date. 11d however would apply to all policies and would leave the decision maker in a quandary on each application as to how to apply 11d. This would create uncertainty for every single planning application.

The wording could refer to Plans being out of date, but does not, so it requires individual policies to be considered but provides no context for the majority to or not to be considered up to date.

The status of the policies in a Neighbourhood Plan (para 32) are said to outweigh the other policies in the development plan. This is contrary to section 38(6) of the Planning & Compulsory Purchase Act 2004 which does not differentiate between the status of policies in different Plans.

**5 Do you agree with the further changes proposed to the tests of soundness, and to the other changes of policy in this chapter that have not already been consulted on?**

The change to the test of soundness in relation to the strategy employed are welcomed (36, b). Far too often developers at EIPs use minor issues in a disproportionate way to “attack” a Plan to further their interest which is disproportionate to the issue involved.

**6 Do you have any other comments on the test of Chapter 6?**

No

**7 The revised draft Framework expects all viability assessments to be made publicly available. Are there any circumstances where this would be problematic?**

The purpose of a viability assessment is to underpin decisions on viability. These need to be open and understood. If there is any sensitive information that should not form part of the public document or the evidence base upon which those decisions are made.

In terms of viability assessments the proposed method of applying all policy tests up front then assessing viability is in our view the wrong approach. There are now a plethora of competing requirements for contributions (education, highways etc) and circumstances in which affordable housing would be required. In most

cases policy decisions need to be made determining how most effectively to use potential contributions from a limited amount that would be available from developments.

We agree that gross development value should be employed but that this should be examined without the policies being applied at the outset. It would be significantly more efficient to consider policies at the point that overall viability is known and to tailor policies according to priority and to the levels of contribution available.

**8 Would it be helpful for national planning guidance to go further and set out the circumstances in which viability assessments to accompany planning applications would be acceptable?**

This would be too restrictive. Local circumstances will play a part in defining whether there are or are not such circumstances and they should be left to individual Plans.

**9 What would the benefits of going further and mandating the use of review mechanisms to capture increases in the value of large or multi-phased development?**

The main benefit of mandating this would be that developers would be required to engage in a structured way to engage in the process.

**10 Do you have any comments on the text of Chapter 4?**

We welcome pre-application discussions on planning applications and the emphasis of this within the NPPF. Although it is unusual to have a section (paras 40-47) that contain guidance, and not policy, it is important that the pre-application process is emphasised with developers as being important. The NPPF could however go further and suggest for example that less weight would be given to a developer's case if they did not engage with the LPA prior to formally submitting an application. This should be limited to major applications however.

**11 What are your views on the most appropriate combination of policy requirements to ensure that a suitable proportion of land comes forward as small or medium sized sites?**

The response questions do not give the opportunity to consider the assessment of local housing need in the context of the remainder of the NPPF. Whilst we are disappointed that the local housing needs assessment method is being pursued, despite the clear majority of those responding to the consultation on it objecting to it, we accept that it will be implemented.

However there are still areas of the process that are far from clear and which need to be explicitly set out in the NPPF. This mainly revolves around the relationship of the new formulae and other drivers of growth – more specifically employment. The current NPPF states at para 158 that strategies for housing, employment and other uses should be “integrated”. The proposed version removes this and is silent on how employment needs and housing needs, which are mutually reliant on each other, are to be dealt with in defining a housing need figure. This needs addressing in the final version in one of two ways.

First there should be clearer reference to the figure not being open to challenge in an EIP should the LPA choose to use it. Otherwise at each EIP developers will simply use that as a lever into challenging the Plan which is precisely what the proposed NPPF is aimed at avoiding.

Alternatively there needs to be clearer guidance on how employment aspirations fit in with the standard assessment.

If either approach or an alternative which gives certainty on how the figures are arrived at, then each EIP will see developers challenge the figure as being too low based on lack of housing to meet other needs.

Securing sites for development requires two fundamental things to be in place. First is that there is a supply of sites of that size available. That is not guaranteed in any area. Second is that there are willing land owners in place who will allow their land to be brought forward for development. That can be more difficult on smaller scale sites as returns overall will be more limited.

There are no actual policy proposals to comment on as the only reference to small sites is in paragraph 69 which simply says bring such sites forward using existing planning tools. We believe that this is a policy that if there are not the range of sites available in SHLAAs (para 68 recognises the important role these play in determining delivery strategies) that having to find them or risk being found unsound would slow down Plan making considerably. It needs to be remembered that SHLAAs are brought together after exhaustive research and public calls for sites and that they will include the vast majority of sites that are likely to be available.

What the proposal potentially does is create an artificially induced policy that may not be able to be fulfilled.

The policy should state that preference will be given to small sites and that there would be a presumption to allocated 20% small sites but only if they are available but that if such sites are not then an alternative delivery strategy could be pursued.

**12 Do you agree with the application of the presumption in favour of sustainable development where delivery is below 75% of the housing required from 2020?**

No.

We, like many other Councils that have challenging viability issues, have made repeated comments in consultations that simply allowing more sites to come forward is not the way to address under delivery in such areas. Indeed in low viability areas the uncertainty of future sales, where there is a plethora of other sites that could come forward, can work against sites with planning permission coming forward due to developers not being willing or able to take such risks.

We already have a policy in place that allows sustainable housing development to come forward anywhere in the Borough and this has not resulted in new sites coming forward that make inroads into increasing delivery rates. It has created a situation where we have a stock of 2675 units with planning permission of which 2054 have not started. The answer to getting houses built in low demand areas is not merely releasing more land.

Developers repeatedly tell us that it is their ability to divest risk and thus to access finance that is the biggest challenge and the main reason they do not develop. Thus the application of the presumption as set out in the NPPF will not increase delivery ubiquitously across all parts of the country. It will clearly work in areas of high demand where Councils are not releasing land but it will not work in other parts of the country and the Government needs to accept that this one size fits all approach is not a good policy to pursue.

We have commented at the outset of our response that the revision is a one size fits all that does not address issues in many parts of the country and the application of the presumption as set out is a clear example of what will be an ineffective policy to drive delivery in a low demand area.

Better access to finance and gap funding to stimulate growth are needed.

The reference at para 78 on imposing a shorter time period to start a development brings two points up. First is that unless there is a policy in the NPPF saying that a planning application would not be renewed if no start is made then a shorter timescale will have no impact on a developer. The cost of submitting a new application is not a consideration in the overall financial of a development.

Second is that the draft NPPF is very clear in indicating that viability should only be assessed at the Plan production stage and that developers should only be asked about viability in accordance with policies set out in a Plan. How does the proposed requirement (para 78) to consider individual development viability in order to assess an appropriate time limit for commencement fit in with the

requirement not to ask for viability information? It does not and is inconsistent with the remainder of the NPPF.

**13 Do you agree with the new policy on exception sites for entry level homes?**

No unless the policy is modified.

The glossary needs to define what an entry level exception site is.

The text says that the exception should be for first time buyers but then refers to affordable rent. It is not clear what the policy is trying to achieve.

There is no definition of proportionate which needs to be clarified.

The exception does not say that sites have to be sustainable which it needs to or developers will argue that by definition exception sites are defined as automatically being sustainable and therefore they do not have to be tested against the other policies in the Framework.

The fact that the sites are outside of a settlement will affect land prices and coupled with the fact that the affordable products would be built means that the land value should be reduced. There is therefore no need for cross subsidy and to allow open market housing on the sites.

**14 Do you have any other comments on the text of Chapter 5?**

No

**15 Do you agree with the policy changes on supporting business growth and productivity, including the approach to accommodating local business and community needs in rural areas?**

Yes

**16 Do you have any other comments on the text of chapter 6?**

No

**17 Do you agree with the policy changes on planning for identified retail needs and considering planning applications for town centre uses?**

Yes

**18 Do you have any other comments on the text of chapter 7?**

No



**19 Do you have any comments on the new policies in Chapter 8 that have not already been consulted on?**

The chapter places a requirement for planning policies to anticipate and address all plausible malicious threats as well as natural hazards. It then adds in a layer of complexity by referring specifically to “relevant areas”.

Local Planning Authorities need more detailed guidance in the National Planning Practice Guidance to be able to fulfil this. There is also a reliance on other agencies to provide the intelligence to support appropriate policies and these agencies need to be proactive in engaging in the process. They, like Councils have a considerable lack of resources and there are concerns whether they can service LPAs in their production of Local Plans.

**20 Do you have any other comments on the text of chapter 7?**

Open space has a number of typologies and does not merely include sports pitches and recreation areas. We agree that there have to be exceptions and control of the circumstances in which open space may be lost. There are however situations where open space is of poor quality and development on it may bring wider public benefits such as housing. We suggest that an additional caveat that the loss of poor quality open space could be allowed where the resulting development would have wider public benefits.

Green belt land is not protected for the same reasons as a Local Green Space which can be protected for many different reasons. It does not make sense therefore to protect it and allow some development based on the same policies.

**21 Do you agree with the changes to the transport chapter that point to the way that all aspects of transport should be considered, both in planning for transport and assessing transport impacts?**

The chapter is generally supported.

Car parking standards are considered in para 106. It refers at 106 (d) to referring to local car ownership rates to take into account in setting standards. This should be removed. Parking needs are not defined by local car ownership rates as there are often complex travel and working patterns that dictate parking requirements. Local ownership rates will not dictate car parking levels in developments.

**22 Do you agree with the policy change that recognises the importance of general aviation facilities?**

No comments

**23 Do you have any further comments on the text of Chapter 9?**

The text here, as in other parts of the NPPF refers to “significant development”. This is not defined anywhere and will leave every development to be defined on its own merits. There should be some attempt to quantify what significant means.

Para 109 refers to circumstances where development may be refused. It refers to residual cumulative impacts having to be severe in terms of the road network or road safety. We disagree that impacts on road safety need to be severe on a residual cumulative basis in order to refuse an application. The test for road safety should be that the residual impact, after mitigation, should be acceptable as opposed to being acceptable unless it is severe. Road safety issues should also not be cumulative. If a development would lead to a severe danger on its own it should be able to be refused. The policy as it stands may compromise public safety.

**24 Do you have any comments on the text of Chapter 10?**

We support the provision of telecommunication infrastructure.

The proposed guidance is however disjointed and out of accord with legislation. It requires evidence from applicants to justify Permitted Development and for applicants to provide details of the outcome of consultations. That is not required in the GPDO. Either the legislation needs to change or this needs to be removed from the NPPF.

**25 Do you agree with the proposed approaches to under-utilised land, reallocating land for other uses and making it easier to convert land which is in existing use?**

No.

Fundamentally the section again misses the opportunity to properly deal with the re-use of previously developed land. That would be to re-introduce a sequential test. Without that encouragement will not lead to higher take up of brownfield sites. This has been demonstrated by the lack of impact the current NPPF has had on delivering brownfield sites as it specifically removed any teeth in policy terms for getting developers to deliver on brownfield sites. There should be clear caveats about viability however were any meaningful brownfield first policy to be introduced.

Allocating land in a Plan is a detailed process that has to be justified in an examination. That includes an assessment of the need to allocate it. Development can often take some time to bring forward particularly if it is commercial land. We strongly disagree that such allocations should be allowed to be used for other purposes as this would have the potential to severely undermine the whole development plan allocation process.

**26 Do you agree with the proposed approach to employing minimum density standards were there is a shortage of land for meeting identified housing needs?**

We agree with the approach of making the best use of land. We suggest that a-e in para 122 are removed and replaced with the phrase "Policies on density should reflect the specific circumstances of the area".

We strongly object to the part c of para 123. The planning system has always had the role of protecting society and making sure that unacceptable impacts are avoided. 123(c) has the impact of allowing unacceptable light standards to be used to enable higher densities. This can never be right or justified and will lead to substandard living conditions for those residents subjected to those reduced standards. It also firmly conflicts with para 126 (f) which requires high standards of amenity.

**27 Do you have any other comments on the text of Chapter 11?**

No

**28 Do you have any comments on the changes of Policy in Chapter 12 that have not already been consulted on?**

Para 127 refers to development that has not been publicly consulted on should not be looked upon as favourably as those that have. This is a strange concept and should be removed in its current form.

The courts are clear that applications must be considered based on their planning merits. Unless the NPPF is to reintroduce the former PPG1 policy that public comment on applications is a material consideration, which in effect means that opposition could scupper a development, then the suggested approach in 127 is unworkable and is a platitude that cannot influence a decision.

**29 Do you have any other comments on the text of Chapter 12?**

No

**30 Do you agree with the proposed changes to enable greater use of brownfield land for housing in the Green Belt, and to provide for the other forms of development that are 'not inappropriate' in the Green Belt?**

Yes

**31 Do you have any other comments on the text of Chapter 13?**

No

**32 Do you have any comments on the text of Chapter 14?**

No

**33 Does paragraph 149b need any further amendment to reflect the ambitions in the Clean Growth Strategy to reduce emissions from buildings?**

This section contradicts numerous sections of the NPPF, in particular allowing for isolated new development in rural areas and development that is not supported by public transport.

**34 Do you agree with the approach to clarifying and strengthening protection for areas of particular environmental importance in the context of the 25 Year Environment Plan and national infrastructure requirements, including the level of protection for ancient woodland and aged or veteran trees?**

Yes.

**35 Do you have any comments on the text of Chapter 15?**

Paragraph 170 needs to be clarified. It initially refers to three types of area. The third paragraph then has the word “these” in it which can be read as referring to the preceding sentence which only deals with two such areas. This could be interpreted as not limiting development in Areas of Outstanding Natural Beauty which we believe is not what the policy is trying to say.

Paragraph 180 is lawfully incorrect. Nuisance does not have to be statutory to be material in planning issues. Nuisance should not be defined here as only including a statutory nuisance.

**36 Do you have any comments on the text of Chapter 16?**

No

**37 Do you have any comments on the changes of policy in Chapter 17, or on any other aspects of the text of this chapter?**

No.

**38 Do you think that planning policy on minerals would be better contained in a separate document?**

Yes.

**39 Do you have any views on the utility of national and sub-national guidelines on future aggregates provision?**

No

**40 Do you agree with the proposed transitional arrangements?**

No.

Paragraph 207 says that Plans may also need to be revised to take account of the new policies. As the policies introduce a number of new requirements all Plans will be affected. Many Councils are actively pursuing Plans at EIP, are waiting for Inspector's reports or have recently had their Plans adopted and without a transitional period of 2 years then these Plans will be instantly out of date. The fundamental principle of the Plan making process is to create certainty in the policy framework in which decisions are made and for Plans to last over a period of time. As things stand every Plan will be out of date when the revised NPPF is published and that will have implications in terms of proposed paragraph 11.

There should be a transitional period in which policies in Plans adopted with five years under the current NPPF are not considered to be out of date.

**41 Do you think that any changes should be made to the Planning Policy for Traveller Sites as a result of the proposed changes to the Framework set out in this document? If so, what changes should be made?**

**42 Do you think that any changes should be made to the Planning Policy for Waste as a result of the proposed changes to the Framework set out in this document? If so, what changes should be made?**

No comment

**43 Do you have any comments on the glossary?**

No.