

# Detailed Briefing on the National Planning Policy Framework (NPPF)

Date: 20 April 2012



- The Government published its National Planning Policy Framework (NPPF) on 27 March 2012.<sup>1</sup>
- This briefing is a follow up to the LGA's on the day briefing note on the NPPF.
- It addresses first some headline issues about the overall approach of the NPPF, and then goes on to consider how it deals with more specific aspects of planning policy, alongside the implications for local authorities.

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# Briefing

<sup>1</sup> The Final NPPF is available at [www.communities.gov.uk/planningandbuilding/planningsystem/planningpolicy/planningpolicyframework/](http://www.communities.gov.uk/planningandbuilding/planningsystem/planningpolicy/planningpolicyframework/)

## Introduction

- 1.1. The final National Planning Policy Framework (NPPF) was published by Government on 27 March 2012. The draft NPPF (published in July 2011), was controversial in a number of areas. Whilst supporting the simplification of the planning system, the LGA lobbied for changes to the draft NPPF and we are pleased that many of our key points have been taken on board in the final document.
- 1.2. This briefing follows up on the LGA's on the day briefing note issued on the day of the final NPPF's publication. It identifies and provides detail on the main changes made in the NPPF and considers the implication for member authorities.
- 1.3. There are a large number of detailed changes from the draft, which essentially clarify matters or add back useful wording which appeared in PPSs and PPGs and was omitted from the draft NPPF. An example is the addition of paragraphs in relation to flooding to set out the working of the sequential test (paragraph 100). These have substantially improved the clarity of the NPPF and improved its scope, but do not necessarily attract further comment within this briefing.

## Headline issues

### 2. The overall thrust of the NPPF and sustainable development

- 2.1. The draft NPPF signalled a substantial shift in national planning policy, giving considerable weight to promoting economic growth and what it referred to as "positive planning", which in particular stressed the importance of meeting objectively assessed development needs. This planned shift was confirmed by the accompanying consultation document, which stated plainly "*The Government's top priority in reforming the planning system is to promote sustainable economic growth and jobs*".
- 2.2. The shift was reflected by the statement in the draft NPPF that "*Decision-takers at all levels should assume that the default answer to development proposals is 'yes', except where this would compromise the key sustainable development principles set out in this Framework*", and at various other points in the text.
- 2.3. The LGA has always strongly supported the need for economic growth, but opposed the way the draft NPPF gave greater weight to the economy over the social and environmental aspects of sustainable development, and the inference that these could be set aside in the interests of development.<sup>2</sup>
- 2.4. We therefore welcome the fact that the finalised NPPF no longer suggests such a level of pre-eminence for the economy and development. The final NPPF continues to make clear the Government's commitment to "*ensuring that the planning system does everything it can to support sustainable economic growth*" (paragraph 19). However the way sustainable development is now described does not give the economy priority over social and environmental considerations, but rather says that "*economic, social and environmental gains should be sought jointly and simultaneously*" (paragraph 8). Most importantly, the proposition that the default answer to development proposals should be 'yes' no longer appears.<sup>3</sup>

<sup>2</sup> See LGA response to draft NPPF consultation (17 October 2011) and LGA evidence to the DCLG Select Committee (21 December 2011) [www.local.gov.uk/planning](http://www.local.gov.uk/planning)

<sup>3</sup> The government have amended the Framework to make reference to both the longstanding Brundtland report and to the five guiding principles set out in the 2005 UK Sustainable Development Strategy. These five

2.5. Also, the core planning principles (paragraph 17) have been revised and expanded to more fully cover the full scope of planning, including an addition which (unlike the draft) recognises the importance of localism and the rural environment by saying that planning should “*take account of the different roles and character of different areas, promoting the vitality of our main urban areas, protecting the Green Belts around them, recognising the intrinsic character and beauty of the countryside and supporting thriving communities within it*”.

### 3. Status in relation to development plans

- 3.1. As a matter of law applications for planning permission must be determined in accordance with the development plan (the adopted local plan plus any adopted neighbourhood plan) unless material considerations indicate otherwise. The NPPF is a material consideration, and whilst it is an important one cannot set aside or override the development plan. However the draft NPPF made no mention of the legal position, and was presented in such a manner as to lead some people to think that the NPPF was in fact the primary consideration.
- 3.2. The final NPPF makes the legal position clear from the very outset, and correctly explains the status of the NPPF relative to the development plan (paragraph 2).<sup>4</sup> It makes it clear that the NPPF is guidance in relation to drawing up plans, and a material consideration in determining applications (paragraph 13). This clarification is welcomed, and should help local planning authorities (LPAs) in tackling misunderstandings among other stakeholders about the standing of the NPPF.

### 4. The presumption in favour of sustainable development

- 4.1. The draft NPPF introduced the principle of a presumption in favour of sustainable development. The LGA raised concerns that the implication was that every LPA should plan to meet all objectively assessed development needs regardless of whether this was feasible or otherwise. The draft was also unclear about how and when the presumption should be applied.
- 4.2. The final NPPF now opens the section on the presumption in favour of sustainable development by saying that “*This National Planning Policy Framework does not change the status of the development plan as the starting point for decision making*” (paragraph 12). It goes on to re-cast the presumption to distinguish between its application in plan-making and in decision-taking on planning applications, which makes it clearer. This clarification is welcomed, and should help provide clarity and certainty amongst LPAs, residents, developers and others within the planning system
- 4.3. For plan-making the finalised NPPF continues the line in the draft that local planning authorities should positively seek opportunities to meet the development needs of their area, saying at that:
- “*Local Plans should meet objectively assessed needs, with sufficient flexibility to adapt to rapid change, unless: Any adverse effects of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework as a whole; or specific policies in this Framework indicate development should be restricted*” (paragraph 14)

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principles are: living within the planet's environmental limits; ensuring a strong, healthy and just society; achieving a sustainable economy; promoting good governance; and using sound science responsibly.

<sup>4</sup> Government have amended the opening sections of the Framework to set out clearly the Framework's relationship with other statements of national policy including National Policy Statements and the Natural Environment White Paper.

- 4.4. The requirement to meet *'objectively assessed development needs'* confirms that LPAs will need to be able to show a firm evidential basis for housing numbers and other key parameters of their plans.
- 4.5. However, the published NPPF does set out in a footnote what, (in terms of Government policy) may constitute specific policies which indicate that development should be restricted. It refers to sites protected under the Habitats Directive, Sites of Special Scientific Interest, Green Belts, local green space, Areas of Outstanding Natural Beauty, Heritage Coasts, National Parks, designated heritage assets and locations at risk of flooding or coastal erosion.
- 4.6. Whilst it would be unsafe to take this as meaning, for instance, that no development within the Green Belt is acceptable, it does mark significant progress from the draft NPPF in acknowledging the kind of circumstances where to meet full development needs may not be appropriate.
- 4.7. In relation to decision-taking the LGA expressed concern about how Inspectors and the courts would interpret the statement in the draft NPPF that planning authorities should *"grant permission where the plan is absent, silent, indeterminate or where relevant policy is out of date"*, and pressed for clarification. The word *"indeterminate"* has been removed from the finalised NPPF, which reduces somewhat the scope for debate over interpretation, but the remainder of the statement is unchanged.
- 4.8. The final NPPF also differs from the draft in that it recognises that other material considerations may properly lead an LPA in decision-taking to make a decision which departs from the local plan or the NPPF. Regrettably it does so only through a footnote to paragraph 14, rather than more prominently in the body of the text.
- 4.9. It remains to be seen how Planning Inspectors and the courts will apply the presumption in relation to specific cases. The LGA will closely monitor this issue in dialogue with local authorities and may seek changes as necessary.

## 5. Local Standards

- 5.1. The published NPPF makes it clear that in preparing plans, the cost of any requirements relating to development should be taken into account, including affordable housing, standards, infrastructure contributions (which presumably includes any existing or planned Community Infrastructure Levy) or other requirements (paragraph 174). It goes on to say that authorities should assess the cumulative impact on development of all their existing and proposed local standards and policies to ensure they do not put implementation of the plan at serious risk<sup>5</sup>
- 5.2. The LGA fully accepts that requirements placed on development must be justified and realistic and not prevent a reasonable commercial return for the developer. Dealing with local well-evidenced standards requires flexibility on the part of the planning authority, the landowner and the developer. However, we regard the ability to set local standards as a key tenet of localism, and will continue to lobby against

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<sup>5</sup> The NPPF makes it clear that Local Plans can reflect issues that are not explicitly referred to in the Framework for example where it would be appropriate and assist the process of preparing or amending Local Plans, regional strategy policies can be reflected in Local Plans by undertaking a partial review focusing on the specific issues involved (paragraph 218). The Framework also makes clear that "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" (paragraph 10). The NPPF is also clear that local areas should be able to set local policies that reflect their local circumstances and enable them to respond to the different opportunities for achieving sustainable development in their areas to "take account of the different roles and character of different areas" (paragraph 17)

any attempt to prevent the setting of reasonable well-evidenced local standards or their replacement by national standards only.

## 6. Viability

- 6.1. The draft NPPF referred to “*acceptable returns*” to the land owner and developer, which caused concern in that it suggested that the level of return should be a subjective matter for the promoters of development, rather than being consistent with market expectations. The finalised NPPF replaces the term by “*competitive returns*” (paragraph 173). Regrettably this is no clearer, and may be expected to lead to disagreements over interpretation at appeal and other circumstances. Similarly, the same paragraph continues from the draft an expectation that the cumulative effect of standards and policies should “*facilitate development throughout the economic cycle*”, which could be taken to mean that they should be set to suit the conditions of the bottom of the economic cycle, whereas the sensible course is to be ready to ease standards and policies when the conditions for development are difficult.
- 6.2. The Local Housing Delivery Steering Group (LHDSG) cross-sector review of viability and local standards in plan-making will be important in providing advice to local authorities, developers and landowners in this regard. The LGA will work closely with partner organisations with a view to concise practitioner led advice being developed in relation to viability and local standards

## 7. Transitional arrangements

- 7.1. The LGA lobbied hard for effective and practical transitional arrangements to enable planning authorities to adapt their plans to be compliant with the NPPF. The published NPPF incorporates an entirely new Annex 1 on Implementation. This does not take forward the idea in the draft NPPF of a *certificate of conformity*, but instead includes a 12 month period from publication of the NPPF during which “*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*” (paragraph 214).
- 7.2. Policies published since 2004 are defined by a footnote as policies in Development Plan Documents prepared under the Planning and Compulsory Purchase Act, so this excludes saved policies from local plans and Unitary Development Plans prepared under the previous regime.
- 7.3. There will no doubt be issues of interpretation of the reference to “*a limited degree of conflict with the NPPF*”, and the intention is clearly that where there is a substantial conflict the NPPF policy should be fully taken into account. However, this is a better situation than applied hitherto when PPSs were published or revised, because they came fully into effect immediately with no time period for adjustment.
- 7.4. The LGA also lobbied for emerging development plan policies to be given material weight in decision making, not purely as a matter of transition but for ongoing purposes. We are therefore pleased that the final NPPF makes it clear that emerging plans can carry some weight even where they have not yet reached submission, which is an improvement on the previous guidance (paragraph 216). Government expressly favoured the approach recommended by the LGA to the CLG Select Committee (cf Ev 120, 10.4 (ii)) whereby the Local Plan is given weight according to the degree of conformity with the NPPF. The LGA is the only non-government body directly referenced in the NPPF.
- 7.5. In considering how to make effective use of the 12 month period to get ‘compliant’ local plans in place, LPAs which have plans in progress are advised to continue

them to adoption as quickly as possible revised as necessary to make them compliant. If authorities already have an adopted plan they are advised to review it for compatibility with the NPPF and progress reviews, where necessary, as quickly as possible to get the plan up to date within 12 months. Although there are some practical and timing issues with this they can also use the greater flexibility in the local planning regulations (published March 2012) to use other Development Plan Documents (DPDs) under preparation as the vehicle to revise policy in an adopted core strategy.

- 7.6. The Planning Advisory Service (PAS) has published a self-assessment tool which will help authorities to work out where the gaps are between their own policies and the NPPF, what the risks of any inconsistencies are and what some of the mitigating actions are. PAS have been working with the Planning Inspectorate (PINs) on this. Part one of this resource (the checklist) is now available from the PAS website, along with PAS's explanation of transition arrangements and the status of guidance, at [www.pas.gov.uk](http://www.pas.gov.uk)

## Specific aspects of planning policy

### The economy

#### 8. Town centre policy

- 8.1. The LGA expressed concern about the draft NPPF and a perceived weakening of national policy for town centres. The finalised NPPF, no doubt influenced by the Portas Review, has revised the policy to stress the primacy of town centres, and emphasises that even where it is appropriate to consider edge-of-centre and edge-of-centre proposals, preference should be given to locations which are well-related to the town centre (paragraph 23)
- 8.2. Also, a policy statement requiring that planning authorities should assess potential sites for suitability, viability and ability to meet the full effect of assessed needs has been removed. This is welcomed, because it would have been onerous for local planning authorities. It is replaced by the continuation of previous policy that proposals for development of town centre uses outside of town centres should *"require an impact assessment if the development is over a proportionate, locally set floorspace threshold"* (paragraph 26).
- 8.3. On a significant matter of detail, the draft NPPF omitted offices from town centre uses covered the sequential test, which would have made it easier for office development to take place away from town centres. However, the final version includes them as town centre uses (paragraph 23). This is important because offices are an integral part of town centre activity, and important in the support they provide for other types of development and services.
- 8.4. The Government has also clarified the policies on town centres to reflect the important role that culture, including the arts, and tourism development can bring to town centres (Annex 2 Glossary).

#### 9. Protection of employment land

- 9.1. The draft NPPF sought to effectively remove the long term protection of employment land. The LGA and others resisted this, because in many parts of the country it could have led to the loss of employment to residential development, to the detriment of local economies.

9.2. The final version largely reverses this policy, allowing for alternative development only where there is no reasonable prospect of a site being used for employment purposes (paragraph 22).

## 10. The rural economy

- 10.1. The draft NPPF said that planning policies should, among other things, “*support the sustainable growth of rural business*”, whereas the final NPPF replaces this by saying planning should “*support the sustainable growth and expansion of all types of business and enterprise in rural areas*”. (paragraph 28)
- 10.2. The section also includes a stronger emphasis on supporting a prosperous rural economy through promoting the conversion of existing buildings, constructing well-designed new ones, allowing new land-based rural businesses to get started and helping farmers to diversify
- 10.3. Whilst the reference to rural business in the draft was narrow, the final NPPF reverses this and includes a very wide definition. This does not recognise that some types of business are not appropriate for a rural area; which may lead to difficult decisions for LPAs which may as a result be faced with unsuitable projects being promoted in rural areas.

## Housing

### 11. 5-year land supply

- 11.1. The LGA strongly opposed the proposal in the draft NPPF that in addition to the 5-year supply planning authorities should be required to include an additional allowance of at least 20%. This is changed in the final NPPF to a 5% allowance, other than where there has been “*a record of persistent under delivery of housing where the buffer will be increased to 20%*” (paragraph 47).
- 11.2. The LGA is disappointed that this buffer has not been removed altogether. There is a serious matter regarding the retention of the 20% buffer for planning authorities where there has been “*persistent under delivery*”. This begs the questions of what constitutes “*persistent under delivery*”, and who will decide whether it is the case. It will create uncertainty for planning authorities as to whether they can plan on the basis of the 5% buffer or should aim for 20%. The LGA will press the Department for Communities and Local Government for clarification to be provided on this matter, as soon as possible.<sup>6</sup>

### 12. Windfall sites

- 12.1. A very welcome change the LGA lobbied for is the provision which will enable planning authorities to make an allowance for windfall sites in the 5-year supply, a reversal of the line introduced by the revised PPS3 in 2006 (paragraph 48). Whilst it is right that the focus of future supply for housing in most areas should be on specific sites identified in the Strategic Housing Land Availability Assessment (SHLAA), there are a sizeable number of Metropolitan authorities and authorities in the Green Belt where there are very few site opportunities (other than by incursion into the Green

<sup>6</sup> Other stakeholders support this assertion. For example, CPRE have noted that “*Government has continued with its misguided approach to requiring the planning system to make available a 5 year supply of “deliverable” housing land and adding additional “buffer” requirements (5 or 20 % now judged on house building performance of planning authorities).*” Their concern is that the additional buffer requirement could “*significantly increase pressure to develop easy, lower cost, Greenfield and rural housing sites instead of, or in addition to, planned developments and brownfield regeneration.*” See [www.cpre.org.uk/media-centre/](http://www.cpre.org.uk/media-centre/)

Belt), but windfalls have consistently met a large proportion of development needs. Such authorities have experienced particular problems in demonstrating that development needs and the 5-year supply can be met.

- 12.2. The new policy is accompanied by a proviso that the planning authority must have compelling evidence that windfall sites have consistently been available in the local area and will continue to be a reasonable source of supply. Planning authorities minded to make an allowance will therefore need to ensure they have suitable evidence, and to avoid double-counting of supply identified in the SHLAA. The LGA will work with partner organisations with a view to the development of concise practitioner-led advice in this area.
- 12.3. The published NPPF adds a new statement that *“The supply of new homes can sometimes be best achieved through planning for larger scale development, such as new settlements or extensions to existing villages and towns that follow the principles of Garden Cities”* (paragraph 52). The reference here to Garden Cities is unfortunate, because it implies national prescription rather than localism, where the planning authority in consultation with its communities decides the most suitable principles for areas of growth.

### 13. Affordable Housing

- 13.1. The final NPPF determines that councils should use their evidence base to ensure that their Local Plan meets the full, objectively assessed needs for market and affordable housing in the housing market area (paragraph 47).
- 13.2. Concerns have been raised by other stakeholders that this section is not as clear as the now cancelled PPS 3 which contained more prescription on the range of circumstances in which affordable housing could be required. Shelter for example states *“There is a clear requirement on authorities to assess the need for market and affordable homes in the area and identify sites on which they can be built. But rather than setting local targets in their local plans, authorities are only required to ‘illustrate the expected rate of housing delivery through a housing trajectory’. Will this be enough to allow an army of armchair auditors to hold their council to account for delivery of affordable homes?”*<sup>7</sup>
- 13.3. What is clear is that it will now be for local authorities to determine when an affordable housing contribution is appropriate and as part of their assessment of housing need, consider the balance between different types of affordable housing alongside wider discussions. The Local Housing Requirements Assessment Working Group (LHRAWG) will be particularly important in advising local authorities, developers and landowners in this respect.

Note: **LGA 2012/13 campaign – Housing the Nation** - The LGA is currently finalising a campaign for 2012/13 aimed at winning increased housing powers and financial freedoms so that councils can further contribute towards addressing the current ‘housing crisis’. In doing so, councils can continue to support economic growth at a local level, positioning themselves as a driving force for, and supporter of, sustainable development and investment in flexible housing solutions that meet local needs.

<sup>7</sup> ?" [See [blog.shelter.org.uk/](http://blog.shelter.org.uk/)

## Use of land

### 14. Previously developed land

- 14.1. The draft NPPF made no mention of previously developed land (brownfield land), but instead made confusing references to the environmental quality of land. The finalised NPPF reverts to use of the term in the core planning principles (paragraph 17). It also restores previous policy in PPS3 allowing planning authorities to set local targets for development on previously developed land (paragraph 111).
- 14.2. The LGA called for maximum discretion for well evidenced local land designation through the economic cycle. We are pleased that the final NPPF has now clearly set this out. Concerns have been raised by other stakeholders that the wording in the final NPPF falls short of the earlier guidance, in that it does not require brownfield sites to always be developed before greenfield ones. CPRE for example have committed to monitoring very closely how this policy is put into place “on the ground” to ensure that green fields are not being developed when alternative brownfield options are available.<sup>8</sup>

### 15. Development of existing open space and playing fields

- 15.1. The draft NPPF was widely seen as putting local open spaces and playing fields at risk through a policy which required only that it be demonstrated that they were surplus to requirements or “*the need and benefits of the development clearly outweigh the loss*”. This made them vulnerable to claims that the land was needed to meet housing requirements.
- 15.2. The final NPPF goes much further, saying that other than where the land is shown to be surplus to requirements, there would have to be equivalent or better replacement provision, or the development would need to be for alternative sports and recreation provision for which the need clearly outweighs the loss (paragraph 74)
- 15.3. There is also a strong emphasis on the need for councils to undertake local needs assessments for open space, sport and recreation to ensure that there is adequate sports provision for local communities.
- 15.4. The LGA position is that councils should have the maximum freedom to take planning decisions about playing fields that reflect local needs and priorities. We would clearly prefer a less nationally prescriptive and more locally determined approach to delivering sports provision for local communities. However we shall continue to work with bodies such as Sport England, to ensure that the new planning system enables councils to achieve the level of sports facilities and access to playing fields that is right for their communities.

## Plan making

### 16. Local plans

- 16.1. A useful new emphasis (paragraph 152) is included in the final NPPF, which sets out the overall approach that should be taken in plan-making, including seeking achievement of each of the economic, social and environmental dimensions of sustainable development, with net gains across all three. It says that significant

<sup>8</sup> See [www.cpre.org.uk/media-centre/](http://www.cpre.org.uk/media-centre/)

adverse impacts on any of these dimensions should be avoided, and alternative options which reduce or eliminate them should be pursued.

## 17. Neighbourhood plans

- 17.1. The NPPF helpfully reinforces the message that neighbourhood plans and orders *“should not promote less development than set out in the local plan or undermine its strategic policies”* (paragraph 184). There is a clear reiteration of the legal provision that decisions on development must be taken in line with locally agreed policies unless other relevant issues indicate otherwise. It is also clear that where neighbourhood plans are drawn up in line with strategic local policies, development will have to conform to the policies in those plans.
- 17.2. The LGA, through its Planning Advisory Service, continues to support local authorities in their work with communities on neighbourhood plans and orders. This is however just one route to involve local people in planning, and neighbourhood planning sits alongside tried and tested approaches to community-led planning.

## 18. Requiring good design

- 18.1. The NPPF now includes a strengthening of policy on design and providing greater weight for the advice of design review panels and enshrining high quality design as a core planning principle. *“Permission should be refused for development of poor design that fails to take opportunities available for improving the character and quality of an area and the way it functions”* (paragraph 64).
- 18.2. LGA pushed for the section on design to be unambiguous in enabling LPAs to say no to poor design. We are therefore pleased with the inclusion of this statement. We will be involved in number of work areas with key stakeholder, which will look to support a shared dialogue with communities, professionals and local government (importantly ward councillors), to develop an innovative community-led approach to delivering better places.

## Other issues

### 19. Transport

- 19.1. The final NPPF replaces Planning Policy Guidance 13 (PPG13) with a promoting sustainable transport section (paragraphs 29-41). The core planning principles carry over from the draft, NPPF as follows *“actively manage patterns of growth to make the fullest use possible of public transport, walking and cycling, and focus significant development in locations which are or can be made sustainable”* (paragraph 17).
- 19.2. Transport Statements and Transport Assessments are still required for all development that generate significant amounts of movements, although what a significant amount of movement constitutes is not defined (paragraph 34-45). Travel Plans are also still included (paragraph 36). Specific parking standards have been removed with local authorities encouraged to consider the accessibility, type, mix, use, availability of public transport, levels of car ownership, and the overall need to reduce use of high emission vehicles if setting local parking standards paragraph 39-40)
- 19.3. In our original submission, the LGA lobbied for the final NPPF to provide greater clarity on the important social objective of transport policy. We therefore welcome the fact that the finalised NPPF no longer suggests such a level of pre-eminence for the economy and development. Concerns have been raised by other stakeholders however that this section is still not as clear. For example the

Campaign for Better Transport suggest " *Given that the framework states that the transport impacts must be 'severe' in order to turn down developments, and that sustainable transport modes should be supported only 'where practical', we think this could still result in big traffic-generating developments that could lead to more traffic and congestion*"<sup>9</sup>

## 20. Waste

20.1. The LGA notes the absence of waste and revision of planning policy for waste management (PPS10) from the NPPF, which will be included as an annex to the National Waste Management Plan in spring 2013. This raises a number of concerns for the LGA as follows:

20.2. PPS10 Planning for Waste will remain in place until replaced in 2013; however it relies heavily on the content of the Regional Spatial Strategies (RSS) which were revoked as part of the Localism Act 2011<sup>10</sup>. The Localism Act 2011 establishes a duty to cooperate between planning authorities which is offered as the means by which authorities agree on planning issues with cross boundary relevance. The regional technical advisory boards that provided a key source of evidence and forum for discussion on this issue are to be abolished (if they have not been already). It will be important that councils continue to cooperate and provide the space for discussions regard planning for waste.

## 21. Duty to Cooperate.

21.1. The Duty to Cooperate on strategic planning issues that cross administrative boundaries became law in November 2011. The NPPF makes it clear that authorities' policies need to pass a legal test to demonstrate that the duty has been satisfied before a plan can be found sound.

21.2. Parallel to the NPPF, Government have included a provision in local planning regulations which requires authorities to publically report on progress against the duty to cooperate in their Authority Monitoring Reports<sup>11</sup>. Government believe that the monitoring requirement will act as a powerful sanction and ensure greater transparency so that councils are held accountable by their communities.

21.3. Some commentators fear this does not go far enough. The Institute for Civil Engineers (ICE) for example remain concerned that the 'Duty to Cooperate' is insufficient to overcome incentives for local authorities to prioritise very local plans without full regard for how developments might impact on neighbouring localities. They have committed to monitor this closely to ensure the drive to empower local authorities does not "*make it even more difficult to deliver the infrastructure that all parties have agreed we so urgently need if we are to create jobs, raise skills and generate growth.*"<sup>12</sup>

21.4. The LGA through PAS has produced advice around the duty to cooperate and strategic planning for local authorities. Local circumstances will dictate different approaches to strategic planning, but our steer is that the more evidenced these arrangements the better, as this can be better demonstrated at examination.<sup>13</sup>

<sup>9</sup> [www.bettertransport.org.uk/media/27-mar-nppf-response](http://www.bettertransport.org.uk/media/27-mar-nppf-response)

<sup>10</sup> See Localism Act 2011 [www.legislation.gov.uk/ukpga/2011/20/contents/enacted](http://www.legislation.gov.uk/ukpga/2011/20/contents/enacted)

<sup>11</sup> See The Town and Country Planning (Local Planning) (England) Regulations 2012 -

[www.legislation.gov.uk/ukxi/2012/767/pdfs/ukxiem\\_20120767\\_en.pdf](http://www.legislation.gov.uk/ukxi/2012/767/pdfs/ukxiem_20120767_en.pdf)

<sup>12</sup> See [www.ice.org.uk/News-Public-Affairs/](http://www.ice.org.uk/News-Public-Affairs/)

<sup>13</sup> See Strategic Planning and Investment - Working for sustainable growth

[www.pas.gov.uk/pas/core/page.do?pagelid=1999583](http://www.pas.gov.uk/pas/core/page.do?pagelid=1999583) , also A Simple Guide to Strategic Planning and the 'Duty

## 22. Planning Policy for Traveller sites

- 22.1. The Government published alongside the final NPPF its new 'Planning Policy for Travellers Sites' (PPTS). The PPTS replaces circular 01/2006: Planning for Gypsy and Traveller Caravan Sites and Circular 04/2007: Planning for Travelling Showpeople and should be read in conjunction with the National Planning Policy Framework<sup>14</sup>
- 22.2. The policy clarifies local authorities have a duty to analyse their local need, in consultation with local communities, while, the Government argues, ensuring fairness in the planning system.
- 22.3. The PPTS places the emphasis of traveller provision at the local level. There is a requirement on local planning authorities to identify and update annually a supply of deliverable sites to provide five years supply against the relevant targets and requires that specific developable sites or broad locations should also be identified for years 6-10 and 11-15 (paragraph 9). Green Belts are to be protected from inappropriate development (the policy identifies permanent or temporary Gypsy and traveller sites as being inappropriate). Where a local planning authority cannot demonstrate a 5 year supply, that is a significant material consideration but only after 12 months and only in relation to the grant of temporary planning permission (paragraph 25).
- 22.4. This policy issue was missing from the draft NPPF. The LGA submitted a comprehensive response to the Planning for Traveller Sites Consultation (August 2011) [www.local.gov.uk/travellers](http://www.local.gov.uk/travellers). We highlighted a number of core issues that we would expect to be retained in national policy.
- 22.5. We also expected the NPPF to make clear how vital it is that councils incorporate within their local plans a long-term strategy to ensure that the needs of the non-settled and settled communities are met effectively.
- 22.6. We are pleased that the final policy recognises that the local plan remains the logical mechanism for any targets to be set. The LGA set out a number of other issues to Government, which do not appear in the policy announcement. For example, we suggested that national government can help this process by relaxing some of the restrictions on the types of sites which can be used as temporary accommodation for Travellers. We also called for a dialogue with Government to revisit the suitability of enforcement legislation in relation to illegal Traveller encampments and the difficulties of utilising powers under the Criminal Justice and Public Order Act 1994.
- 22.7. The LGA is also prioritising support for local government on this issue. Together with the Planning Advisory Service (PAS) and CLG we co-sponsor the Gypsy and Travellers National Awareness Training Programme. This support programme helps UK councillors and key stakeholders understand how to use the planning system to positively plan for Gypsy and Traveller provision. More information is available at [www.local.gov.uk/travellers](http://www.local.gov.uk/travellers)

## 23. Enforcement

- 23.1. The draft NPPF was silent on the matter of enforcement. The LGA called for an explicit reference to enforcement and the role of the local authority in this respect.

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to Co-operate' [www.pas.gov.uk/pas/core/page.do?pagelId=1795308](http://www.pas.gov.uk/pas/core/page.do?pagelId=1795308) and The Golden Rules for Effective Strategic Planning [www.pas.gov.uk/pas/core/page.do?pagelId=1937221](http://www.pas.gov.uk/pas/core/page.do?pagelId=1937221)

<sup>14</sup> [www.communities.gov.uk/publications/planningandbuilding/planningpolicytravellers](http://www.communities.gov.uk/publications/planningandbuilding/planningpolicytravellers)

A single reference (paragraph 207) is now added which advises that planning authorities should consider publishing a local enforcement plan.

## 24. Cancellations and status of current and future guidance

24.1. Most PPSs, PPGs and Minerals Policy Statements were cancelled at the same time the NPPF was published. The Framework sets out in Annex 3 a list of the documents that it replaces. The exceptions are Planning Policy Statement: eco-towns - A Supplement to Planning Policy Statement 1; Annex E of Planning Policy Guidance 7: The Countryside - Environmental Quality and Economic and Social Development; Planning Policy Statement 10: Planning for Sustainable Waste Management; Planning Policy Statement 25: Development and Flood Risk - Practice Guide and Planning Policy Statement 25 Supplement: Development and Coastal Change - Practice Guide.<sup>15</sup>

24.2. Although, if a paragraph or section of the companion guide/annex refers you to a PPS or PPG which has been replaced, then that part cannot be considered relevant. The NPPF will always 'trump' other guidance notes where there is conflict. However, most of the NPPF is not concerned with the 'how' question. Companion guides can contain useful information on how to deliver certain policies or carry out certain pieces of work.

24.3. The Government is also cognisant that it will not always be the case that the guidance should come from Government itself. It has embarked on a new exercise to consider what underpinning guidance continues to be needed, involving practitioners and other interested parties. Once this review has taken place, it will be made clear which other guidance notes or parts of them remain, and which are deleted. The LGA pushed Government hard to clarify what will happen to the raft of current statutory and non-statutory planning guidance or regulation, what stays and what goes, as well as Government's future intentions. We are therefore pleased that the final NPPF goes some way to address this and will be working closely with government on the next steps for this.

<sup>15</sup>Most PPSs, PPGs and Minerals Policy Statements were cancelled at the same time the NPPF was published. For those that remain, see <http://www.communities.gov.uk/archived/general-content/planningandbuilding/planningpolicystatements/>

**Table 1: Capture of core reactions**

- *“The new framework hands the responsibility back to local communities to decide where new homes, businesses and infrastructure to support them should be built. So the onus is on local authorities to work with people and businesses in their area to develop suitable plans as quickly as possible.”* Confederation of British Industries (CBI)<sup>16</sup>
- *“Supporting local authorities with developing robust local plans will be crucial to ensure the success of the new system”.* UK Green Building Council (UKGBC)<sup>17</sup>
- *“There is now an urgent need for local authorities to prepare up-to-date local plans for their areas, in consultation with local people and local businesses and we are encouraging all our members”* Construction Products Association (CPA)<sup>18</sup>
- *“The principal weakness of the Government's whole planning strategy remains its reliance on local authorities bringing forward plans with adequate housing numbers. The current arrangements set no figures and many local authorities will ensure their targets remain well below demand for new housing, when the economy recovers. The result will only be long term under-supply of housing”* House Builder Association (HBA)<sup>19</sup>
- *“The onus is now on them [local authorities] to deliver and address the country's acute housing crisis. Government will also have to monitor the process closely to ensure Local Authorities are meeting their obligations as a radically different system beds in.”* Home Builders Federation (HBF)<sup>20</sup>
- *“The BPF believes the debate must now move on to how the NPPF, which takes effect today, will work in practice given around half of local authorities still have not produced a Local Plan, and the complete lack of any underpinning guidance to support the document.”* British Property Federation (BPF)<sup>21</sup>
- *“We welcome the Government's positive response to calls to allow local authorities time to get their local plans up to date before the presumption in favour of sustainable development kicks in. It will nonetheless be a significant challenge for many resource-strapped authorities to get their plans right within the 12 month deadline.”* Campaign to Protect Rural England (CPRE)<sup>22</sup>

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<sup>16</sup> [www.cbi.org.uk/media-centre/press-releases/2012/03/cbi-comments-on-new-national-planning-policy-framework/](http://www.cbi.org.uk/media-centre/press-releases/2012/03/cbi-comments-on-new-national-planning-policy-framework/)

<sup>17</sup> [www.ukgbc.org/news/uk-gbc-welcomes-planning-concessions-nppf](http://www.ukgbc.org/news/uk-gbc-welcomes-planning-concessions-nppf)

<sup>18</sup> [www.constructionproducts.org.uk/textonly/news/press-releases/display/view/construction-products-association-welcomes-new-national-pla/](http://www.constructionproducts.org.uk/textonly/news/press-releases/display/view/construction-products-association-welcomes-new-national-pla/)

<sup>19</sup> [www.builders.org.uk/nfb11/News.eb?nid=310810](http://www.builders.org.uk/nfb11/News.eb?nid=310810)

<sup>20</sup> [www.hbf.co.uk/media-centre/news/view/new-system-gives-local-authorities-power-to-solve-housing-crisis](http://www.hbf.co.uk/media-centre/news/view/new-system-gives-local-authorities-power-to-solve-housing-crisis)

<sup>21</sup> [www.bpf.org.uk/en/newsroom/press\\_release/PR120327\\_-\\_NPPF\\_Property\\_industry\\_welcomes\\_sensible\\_changes\\_to\\_planning\\_framework.php](http://www.bpf.org.uk/en/newsroom/press_release/PR120327_-_NPPF_Property_industry_welcomes_sensible_changes_to_planning_framework.php)

<sup>22</sup> [www.cpre.org.uk/media-centre/latest-news-releases/item/2797-cpres-initial-analysis-of-the-national-planning-policy-framework](http://www.cpre.org.uk/media-centre/latest-news-releases/item/2797-cpres-initial-analysis-of-the-national-planning-policy-framework)