

Planning Policies

The main elements in the new planning revolution are: the National Planning Policy Framework which is currently under consultation; the Localism Bill which is in the House of Lords; the New Homes Bonus; the proposal to relax planning rules governing change of use from commercial to residential and; the shift of major infrastructure projects to the new Major Infrastructure Planning Unit. Individually each of these elements represent a major shift. The collective impact of all these elements is huge although the precise inter-relationship of these items has yet to be gauged.

The National Planning Policy Framework

The new National Planning Framework is a bold radical initiative intended to stream-line overall planning policy. The Government view it as part of a move to deregulate planning, to try to simplify it and to introduce positivity to the system via “development management” and the “presumption in favour of sustainable development”.

The underlying basis of the NPPF is a plan-led system based on local plans prepared by the local authority but also with reference to neighbourhood plans as outlined in the Localism Bill.

There are key messages within the NPPF which come across clearly. These include: an emphasis on growth; the espousal of a low carbon strategy and; the stated function of the planning system as the *delivery* of sustainable development.

Sustainable development is seen as meeting “the needs of the present without compromising the ability of future generations to meet their own needs”. This involves planning for prosperity, people and places in an integrated way.

Probably the most controversial element of the NPPF is a presumption in favour of sustainable development so that local authorities should “approve all individual proposals wherever possible”. The default answer should be assumed to be “yes” where the local plan is “silent, indeterminate or where the relevant policies are out of date”.

Other elements to note in relation to the NPPF are:

- It is relatively short document – 52 pages in comparison to 200 documents of planning guidance (such as circulars, PPGs and PPSs) which will be scrapped from April 2012.

- “Up to date” local development plans are the basis of the system. Such plans must conform with the NPPF. They have to be examined by an independent inspector who will assess soundness and whether they fulfill a duty to co-operate with adjacent local plans.
- Neighbourhood plans must be in general conformity with the strategic priorities of the Local Plan but the policies of the Neighbourhood plan take precedence over the local plan for that neighbourhood where there is conflict.
- Within the Neighbourhood Plan, planning permission can be given directly by neighbourhood forums under Neighbourhood Development Orders and Community Right to Build Orders.
- A commitment to “town centre first” policy is emphasized.
- In relation to land supply there is a duty to maintain a 5 year rolling supply of deliverable sites, plus an additional allowance of 20% to ensure choice and competition in the market for land.
- Waste planning is not part of the NPPF. This will be dealt with separately.
- CLG is keen to stress that the NPPF needs to be assessed as a whole.

The document is out for consultation until **October 17 2011**. A full copy of the NPPF can be seen on <http://www.cic.org.uk/activities/consult.shtml>.

Guidance

The new framework will sweep away existing planning policy guidance notes and planning policy statements from April next year. At present there are over 1,000 pages of policy statements and more than 6,000 pages of supporting documentation contained within a total of more than 200 documents.

The impact assessment attached to the NPPF recognises the need for further good practice guidance, although in most cases the Government expects this guidance to be developed and owned by “relevant external bodies” rather than being specified centrally. This issue is important, in view of the technical issues addressed in existing guidance. For example, what will be the criteria for considering a proposal to develop a major developed site in the green belt when Annex C of PPG2 is revoked? It will be critical that the Government gives a clear and early indication of how and when this additional guidance is to emerge.

The presumption in favour of sustainable development

Identified as a key tool within the simplification strategy underlying the NPPF, the presumption is stated to be as follows:

“There is a presumption in favour of sustainable development at the heart of the planning system, which should be central to the approach taken to both plan-making and decision-taking. Local planning authorities should plan positively for new development, and approve all individual proposals wherever possible.

Local planning authorities should:

- *prepare local plans on the basis that objectively assessed development needs should be met, and with sufficient flexibility to respond to rapid shifts in demand or other economic changes;*
- *approve development proposals that accord with statutory plans without delay; and*
- *grant permission where the plan is absent, silent, indeterminate or where relevant policies are out of date.*

All of these policies should apply unless the adverse impacts of allowing development would significantly and demonstrably outweigh the benefits, when assessed against the policy objectives in the National Planning Policy Framework taken as a whole.”

The explanation that local authorities should “grant permission where the plan is absent, silent, indeterminate or where relevant policies are out of date” brings up the immediate question as to how “out of date” is to be defined. It could be argued that the economic turbulence since 2008, has rendered all existing plans “out of date”. What does the word “indeterminate” actually mean?

“Sustainable development” in the NPPF is defined as “development that meets the needs of the present without compromising the ability of future generations to meet their own needs”. This definition is based on the Brundtland Commission 1987 which was not referring to land use planning per se but rather to general economic and social development.

Some have expressed reservations that the presumption, as worded, means a local authority cannot refuse a scheme in the hope of a better one, rather there is a pressure to approve promptly.

It can be argued that the “presumption” provides the ‘teeth’ that the previous government’s target-based system never had. For example, local authorities have to anticipate future housing demand, provide appropriate amounts of land and plan for the required numbers of housing, all using “objective” data. So while the targets have gone, the methodology that produced them remains (i.e. predict future housing demand and provide the land). Local authorities that do not use household projections to plan for housing will risk not having their plan approved, leaving them open to the “presumption in favour”. Some express the fear that local authorities will be given a choice between planning for what they might perceive to be a high number of homes or risk losing control over development in their area almost entirely.

Effect on local plans

While the NPPF stresses the primacy of local plans currently only half of the local authorities in England have published a core strategy and fewer than a third have adopted one. Thus, there are many plans that are “out of date” or “absent” and many situations where the presumption might apply.

Each local plan must set a minimum number of homes that the authority will allow to be built in its area by 2028 while also identifying land that can be allocated for these properties. In relation to land supply there is a duty to maintain a 5 year rolling supply of deliverable sites, plus an additional allowance of 20% to ensure choice and competition in the market for land. Each strategy must be examined and approved by a planning inspector before it can come into force. He or she will assess soundness and whether the plans fulfill a duty to co-operate with adjacent local plans.

One consequence of the advent of the new system will be to act as a spur to publish new local plans. As one commentator has said “as of August 2011 local planning authorities now have 5-8 months to prepare new development plans before the maelstrom of the presumption is released. This is unrealistic - even the swiftest plan revision will take a year. Indeed, many of the staff who would be preparing plans will be fighting appeals for speculative applications on unsuitable sites.” All this has to be done against a current back-drop of cuts in planning staff due to the economic situation.

In the overall context of a radically different planning system (e.g. the abolition of regional planning along with housing and density targets, the impact of the New Homes Bonus initiative and the development of the concept of Localism as set out in the Localism Bill) much of the efficacy of the new system will depend on how issues within these other elements of the system are worked out.

The New Homes Bonus Policy

Under this scheme, the Government will match the council tax raised through the construction of new homes for the first six years, with councils receiving up to 36% more for affordable homes. Money will also be paid for empty homes brought back into use.

As a result, councils will get an average of more than £9,000 for every band D home built, or nearly £11,000 for an affordable property, during these six years. The Government estimates that a community that builds an additional 1,000 properties could earn up to £10 million.

This subsidy will be paid to councils, who will be encouraged to consult their local community as to how it is spent. Possible uses suggested for this extra cash range from council tax discounts for local residents and boosting frontline services, such as rubbish collections, to providing facilities, such as swimming pools and leisure centres.

The Government estimates that this scheme will lead to an additional 140,000 new homes being built in the coming 10 years. Money has already been

allocated to kick start this system. However, set against the estimated 250,000 starts needed each year (as suggested in the 2004 Barker Report) to deal with natural population growth, migration and increasing household formation, this scheme will not have a major impact.

Promoting commercial development

In relation to promoting development within the commercial sector, a current CLG consultation (which ends on 24 October 2011) proposes the local retention of business rates. One of the motives behind this move is to act as an encouragement towards commercial development. This consultation also sets out how Tax Increment Financing will operate within the business rates retention system as a way of funding infrastructure investment to unlock economic growth. The proposal to create Enterprise Zones is another initiative targeted at business and job creation which has implications for planning at a local level.

The Localism Bill

The Localism Bill is a hybrid document but some of the most important provisions relate to planning.

One of the main innovations of the Localism Bill is to introduce a new level of planning, the Neighbourhood Plan. Under Schedule 9 of the Bill, parish / town councils and local community groups will have the power to apply neighbourhood development orders and neighbourhood development plans. These plans set out the policies for development for a particular area, whilst the orders grant planning permission, enabling town and parish councils (or, in their absence, local community groups) to become decision-making bodies.

Neighbourhood development plans or orders will not take effect unless there is a majority of support in a referendum of the neighbourhood. An independently qualified person has to check that the plan or order meets conditions or conformity with the NPPF and the strategic priorities in the local plan before it can be voted on in a referendum.

Chapter four of the planning section makes pre-application consultation a statutory requirement. It will be crucial for developers to begin consultation at an early stage, ensuring objections can be minimised. The Bill creates an obligation for developers to 'publicise the proposed application in such manner as the person reasonably considers is likely to bring the proposed application to the attention of a majority of the persons who live at, or otherwise occupy, premises in the vicinity of the land.' Under the Bill, planning officers are encouraged to agree to consultation plans prior to execution.

The Localism Bill allows for the retention of the Community Infrastructure Levy (CIL) by which local authorities can choose to lay a charge on new developments in their area. This money can be used to support development by funding infrastructure that the council, local community and

neighbourhoods want. It allows for CIL to be provided for initial costs on an on-going basis.

The Bill formally abolishes Regional Spatial Strategies and also places a duty to co-operate in relation to the planning of sustainable development.

Under Chapter 6 of the Bill nationally significant infrastructure proposals will be returned to ministers following the abolition of the Infrastructure Planning Commission. National Policy statements will now be approved by Parliament.

Change of use proposals

In a consultation which closed in June 2011, the Government has proposed changes to the Town and Country Planning (General Permitted Development) Order to grant permitted development rights for changes of use from commercial (B use classes) to residential use (C3 use classes). The proposed changes are expected to free up to an additional 14,000 dwellings per year. This move is viewed with concern in some areas. It may for instance have a negative impact on the City of London. In that area, the most vulnerable office stock to a change of residential use is likely to be small to medium sized offices, just at a time when the Government is seeking to energise small to medium enterprises.

Why are the changes so controversial?

The proposed changes are controversial. They bring together some of the biggest national problems in the UK. Trying to promote economic growth; achieve massive infrastructure renewal; tackle housing need, while minimizing public spending is a complex task.

There is a widespread perception that the new rules shift power in the planning system to developers and that “sustainable development” is viewed first and foremost as sustaining the economy rather than the environment. This is the main concern of powerful lobby groups such as the Campaign for the Protection of Rural England and the National Trust. The most commonly heard fear is that the new regime will result in a “free for all”.

With so many changes taking place practically simultaneously, it is not clear how the various elements of the key strategies co-relate. For instance Renewable UK is seeking to introduce amendments into the Localism Bill which would prevent planning applications which are being actively considered by a Local Planning Authority being subject to referendum powers set out in Part 4 of the Localism Bill. This clearly illustrates the complexity of trying to reconcile local interests with larger national and strategic planning objectives.

Two areas which arouse considerable heat in this debate are housing and the impact of the new regime on the Green Belt.

Housing

A key measure of the success of any new planning strategy has to be whether the numbers of new build homes are increased. Currently the levels of new house-building are at their lowest since 1923, with only 123,000 homes built in 2009/2010. While the recession and lack of mortgage availability are undoubtedly factors, there is also evidence that many building projects have been abandoned since the coalition came to power. It can be argued that one major element in the current system which ensured deliverability of housing was the imposition of central targets. A report commissioned by the National Housing Federation in July 2010 estimated that almost 85,000 homes which were at the planning stage were abandoned because of the abandonment of Labour's regional housing targets.

The Green Belt

The Green Belt – Commons Library Standard Note (14 September 2011) states that “the area of designated Green Belt Land in England at 31 March 2011 was estimated at 1,639,540 hectares, about 13 per cent of the land area of England”. The area of Green Belt has not reduced in recent years. Reductions in some areas have been offset by increases elsewhere. In 2011, the OECD criticized the green belt system for being an obstacle to stimulate house building. This report stated that “Green Belts constitute a major obstacle to development around cities, where housing is often needed”. In February the Institute of Directors called for land to be released in the Green Belt to stimulate housing.

The NPPF retains green belt protection but in a simplified form. It states that it should not be necessary to propose new Green Belts or to alter the existing boundaries other than in exceptional circumstances. The NPPF states that in determining planning applications, planning authorities should give substantial weight to any harm to the Green Belt.

Generating growth

The Construction industry is a major contributor to the UK economy. ONS valued construction as 5.8% of the economy in 2009. In 2010 there were 2.16 million jobs in construction, 6.9% of the total workforce (ONS). Output within construction has been badly affected by the recession, particularly in the house-building sector. The Plan for Growth published with the Budget in March 2011 stressed the importance of investment in infrastructure projects and house-building for the UK economy. Actions to assist the construction industry announced in the plan included measures to reduce regulation and reform the planning system.

Construction activity produces jobs at many skill levels throughout the country from unskilled through to high specification design work. Research by the economic consultants, LEK, have shown that every £1 spent on construction output generates £2.84 in total economic activity when the knock-on effects of manufacturing, real estate and business services, such as architecture and

surveying, are taken into effect. This research also showed that of every £1 spent, 92 pence stayed in the UK, which still retains a major construction products' industry.

Looking forward

In very uncertain economic times, a major priority for the Government has to be to encourage economic growth. In September 2011, the Centre for Economics and Business Research (CEBR) predicted that a housing boom equal to that of the 1930s could create over 200,000 new jobs over the next three years. Raising the numbers of new houses to 300,000 by 2015, would boost GDP by £75bn and create 201,000 jobs in the construction industry. The increase in housing stock could also reduce rents by nearly 11% by 2015, and make housing more affordable for young people. According to the CEBR, lower rental costs would see the under-35s boost their living standards by 4% by this date, and a higher percentage thereafter.

The planning reforms which are going forward, taken in conjunction with the undertaking that all planning applications and appeals will be processed within 12 months and the fast-tracking of infrastructure projects represent a serious attempt to “kick-start” the construction industry. How successful these attempts may be, will to a large extent depend on other economic variables such as the availability of finance, overall economic growth and job security.