



Chartered
Institute of
Environmental
Health

Draft National Planning Policy Framework

Response by the Chartered Institute of Environmental
Health to the consultation document published by the
Department for Communities and Local Government

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The Chartered Institute of Environmental Health

As a Chartered **professional body**, we set standards and accredit courses and qualifications for the education of our professional members and other environmental health practitioners.

As a **knowledge centre**, we provide information, evidence and policy advice to local and national government, environmental and public health practitioners, industry and other stakeholders. We publish books and magazines, run educational events and commission research.

As an **awarding body**, we provide qualifications, events, and trainer and candidate support materials on topics relevant to health, wellbeing and safety to develop workplace skills and best practice in volunteers, employees, business managers and business owners.

As a **campaigning organisation**, we work to push environmental health further up the public agenda and to promote improvements in environmental and public health policy.

We are a **registered charity** with over 10,500 members across England, Wales and Northern Ireland.

Draft National Planning Policy Framework

We refer to the Department's consultation paper and the accompanying draft National Planning Policy Framework (NPPF) published in July. Members of the Chartered Institute work on both 'sides' of the planning system, in local government and in consultancy, and the CIEH is a statutory consultee for the purposes of National Policy Statements. Our response follows below. It makes some general comments before turning to some selected areas of planning policy particularly relevant to our professional activity.

To begin with, we do not accept that the current planning system is inherently slow or excessively costly or blocks development. While the squeeze on manpower in local planning authorities is having predictable results, it is surely only right that the more complex or controversial a proposal, the more consideration should be given to it and the evidence for those claims is, thin, not to say partial. The experience of our members who play a role in vetting applications is, contrarily, that target times are so tight that it is often not possible to give them proper consideration and we understand that over 80% of first applications are approved. More are approved following appeal, more development still is, of course, 'permitted' and in total, the government's spokesman in the Lords admitted recently there are permissions for some 240,000 homes outstanding. The reasons why more homes are not being built are, we suggest, primarily financial and we do not believe the blame can be laid at the door of planning, let alone the current body of planning guidance or that, consequently, there is any justification for reducing that body to one-twentieth in size.

That is, however, not to deny that the body of existing planning guidance would not benefit from review, indeed it was already under review and PPSs were starting to be reviewed even before they had completely replaced PPGs. Some current guidance does not reflect best thinking, it can be wordy and repetitive, and a smaller volume could provide the same value while becoming more accessible nevertheless there are limits to what can sensibly be cut. Our private sector members who advise developers are clear that less certainty in planning guidance would not seem to be conducive to faster or more predictable decision-making, indeed many planning lawyers are predicting an increase in litigation. That, of course, translates into cost and delay.

Turning to particular questions,

1a. Delivering sustainable development: Do you agree that the Framework has the right approach to establishing and defining the presumption in favour of sustainable development?

Like many other observers, we regret the answer to this is 'no'. The Ministerial Foreword begins with the statement 'The purpose of planning is to help achieve sustainable development'. It goes on in a three word sentence 'Development means growth.' to give a purely material definition of 'development', an interpretation underlined in the Treasury's *Plan for Growth* which says '...development consents should prioritise growth and jobs...', in other parts of the Framework, e.g. para 13 (where it is written '...significant weight should be placed on the need to support economic growth...') and in the Impact Assessment. It is an interpretation supported by the property industry too (which was, of course, largely responsible for the NPPF's text) but we disagree with both the statement and its explanation. As the Sustainable Development Commission might have pointed-out, sustainable development is about more than economic growth, indeed not all development involves that kind of growth at all and the government's focus on that with examples such as motorway

services (para 85) and advertising hoardings (para 123) is concerning . As has been asked: if these are examples of sustainable development, what is not?

Sustainable development is, of course, about reconciling economic, social and environmental factors and, not least in the latter respect about observing environmental limits. An apposite ambition for that might lie in the term 'Green economy' but that does not seem to feature in the Framework's understanding of growth. It certainly needs planning but achieving it is equally certainly not planning's sole purpose; ever since the 1947 Act, a clear purpose of the planning system has been to balance conflicting demands and though development control may have evolved into development management, it is still a function of the planning system to do that and, if necessary, to say 'no' to development. It follows that if the planning system should contain any presumption in relation to particular developments, it should be a presumption against *unsustainable* development but decisions in favour of particular developments need to be made on broader grounds than merely 'growth'.

We are also concerned at the proposal that, where there is no local plan in place or one is out-of-date or imprecise, the default answer should be 'yes', in effect taking the decision out of local hands; local planning authorities should, of course, do their utmost to draw up and maintain such plans nevertheless that is a big resource 'ask' and even the minority which currently have plans are likely to have to re-write them as a consequence of the NPPF. We hear that developers are already taking advantage of this situation and while the test of showing unacceptable impacts will fall, again, on hard-pressed LPAs we think the default answer should be 'Let's think about it'.

As it is written, the Framework takes both too narrow and short-term a view of sustainable development and of the function of the planning system, arguably seeking to change that fundamentally. The unnecessary maligning by Ministers of respected and responsible critics and sophistrous statements about the effects of neighbourhood plans (which will not allow communities to say what they do *not* want) and protecting the Green Belt (skipping over effects on the wider countryside) only tend to raise suspicions that greater change is afoot here than is being admitted.

2a. Plan-making: Has the Framework clarified the tests of soundness, and introduced a useful additional test to ensure local plans are positively prepared to meet objectively assessed need and infrastructure requirements.

While we are pleased to see that plans should be prepared on the basis of objectively assessed need (and not 'demand'), in the light of the Framework's stress on sustainable development we would have liked to see a test of demonstrable community support among the criteria of soundness. Notwithstanding local plans are made by Local Planning Authorities, that could indirectly strengthen the effect of neighbourhood plans.

3a. Decision taking: In the policies on development management, is the level of detail appropriate?

We welcome the emphasis on pre-application engagement in this section which is often mutually beneficial. It would be additionally helpful, though, if reference could be made specifically to local authorities' regulatory services (in particular environmental health services) since applicants can sometimes think that pre-app discussions with planners alone are sufficient, only for regulatory concerns to be recognised later.

4a. Decision taking: Do you agree that any guidance needed to support the new Framework should be light-touch and could be provided by organisations outside Government?

In many respects, the Framework provides a reasonable précis of existing policy nevertheless the current body contains important detail which is being lost. Some of that may not be, precisely, about planning principles nevertheless it has been valuable in 'oiling the wheels' and the Framework will only stand up as such if some of that detail is retained to underpin it. We do not know what is meant by 'light-touch' but if it is 'superficial' or 'optional', that will not fulfil the same useful function; it needs to say, clearly, what needs to be said and to be widely and consistently adopted.

Whereas the necessary expertise to produce it certainly exists outside government, the Department needs first to answer the key question of how third-party guidance, however expert, will carry the necessary authority; though that may not matter where there is agreement between parties it will be crucial where there is contention, as there will be, encouraged by the inconsistency which leaving so much to local decision (or default) will otherwise bring.

4b. Decision-taking: What should any separate guidance cover and who is best placed to provide it?

It is not possible to answer this comprehensively nevertheless, as examples, we would point to PPS23 and PPG24. The former, in Annex 2, sets out the respective responsibilities of developers and planning authorities, in particular to make clear that it is the job of the former to demonstrate that their developments will not be determinable as 'contaminated land' on completion. Though the Framework mentions that goal, it does so only in a footnote leaving open to argument whose responsibility it is, let alone how it should be done, and there is a clear need to restate that with references to appropriate standards (e.g. CLR11 and BS 10175) in new guidance.

PPG24 advises on the use of conditions to minimise the impact of noise. Six annexes contain noise exposure categories for dwellings, explain noise levels, give detailed guidance on the assessment of noise from different sources, gives examples of planning conditions, specify noise limits, and advise on insulation of buildings against external noise. Though somewhat old, its replacement PPS was in an advanced state of preparation when shelved and, with little refreshment, needs to be preserved as an essential guide in the case of particular developments and a necessary supplement to the government's Noise Policy Statement for England.

The answer to the question of who should provide it is obvious: for reasons of authority and impartiality it needs to be provided by consortia (appropriate to the particular subject) of the planning and other professional bodies. They should not, however, be expected to provide it without government support. In any event, the Department needs to make its intentions here clear quickly; how to fill the impending guidance void is a question already being discussed by many interested parties but it is in no-one's interest for competing, or even conflicting, guidance to start appearing.

7a. Transport: Does the policy on planning for transport take the right approach?

While we are pleased to see reference to health objectives in the very opening sentence of this section, together with encouragement to minimise travel needs, for sustainable transport modes and for reducing greenhouse gas emissions, any mention of broader air quality objectives and the essential role of planning in meeting those (and not just in Air Quality

Management Areas) is conspicuously absent. In the light of the Environmental Noise Directive's focus on transport sources, we would also have liked to see express mention of the need to mitigate noise impacts, in both cases not leaving consideration of these impacts to be 'read-in' from the later section in the Framework on the natural environment and, in general, we would like to see more relevant cross-references of this kind throughout the document. Particular mention of the needs of people with disabilities would be welcome here too.

10a. Housing: Will the policies on housing enable communities to deliver a wide choice of high quality homes, in the right location, to meet local demand?

Sufficient decent, secure and affordable housing is a prerequisite for societal health and well-being, educational achievement, economic development and the proper care of all age groups and we agree there is a clear need to increase the supply of affordable and adaptable housing in all tenures and mixed communities. What 'affordable' means needs to be better defined, though, in particular in different local contexts and mechanisms also need to be devised to maintain affordability in the owner-occupied stock beyond the first ownership. The opportunity for everyone to live just where they want to live may prove to be just too aspirational, however, as well as at odds with the principle of planning on the basis of need rather than demand. This also highlights the general lack of a spatial dimension throughout the Framework.

New-build is not the only way to meet housing demand, of course, and the mention of the role of regeneration and renewal in para 107 is welcome. The funds to pursue those options would be welcome too but it is equally important not to forget the wasted potential of the existing housing stock in terms of long-term voids, under-occupation and disrepair.

Conversions of non-residential buildings to homes is, of course, another way of meeting housing need, hinted at in para 75, nevertheless we have some concerns about this and, in particular, the conversion of office buildings as 'permitted development'. In the first place this decoupling of employment opportunities from housing raises sustainability questions but also, without a need for planning consent, there would seem to be no opportunity to require developers to contribute to the cost of necessary additional infrastructure (*via* s.106 agreements). The growing use of permitted development rights can also circumvent consideration of the impact of land use changes on future occupiers and neighbours. Consideration of the link between employment and housing also begs the question whether there is a larger role for employers as well as other provider models such as Community Land Trusts in housing provision?

12a. Design: Is the policy on planning and design appropriate and useful?

Land once built upon is for the most-part built upon for ever but it is a finite resource and we have often given it away too cheaply, the benefits being accrued by a few while the disbenefits are more widely felt. That is particularly true of the products of the mass housebuilders which often pay as scant attention to their surroundings as (*vide* RIBA's recent *The case for space*) to their habitability and we welcome the strong statement in para 114 about the importance of design in both its functional and aesthetic senses. While the latter has usually been said to be beyond the scope of land use planning as a matter of subjective taste, it is easy to understand its value in place-shaping and, alternatively, the damage done by careless and incongruous design. It is nonetheless disappointing, in particular given the document's stress on sustainability, to see no mention of the importance of the environmental performance of buildings in general and of housing especially.

13a. Green belt: Does the policy on planning and the Green Belt give a strong clear message on Green Belt protection?

Clearly, the draft Framework does provide support for the concept of Green Belts and other designated areas nevertheless we do not think that goes far enough. In the first place we are not convinced that that protection is not undermined by the presumption in favour of sustainable development and in the second place, such designations apply only to particular areas while the emphasis of the Framework would seem to encourage both sprawl and other inappropriate development to go relatively unchecked elsewhere. A new Local Green Space designation which 'will not be appropriate for most green areas or open space' is also of questionable value and it follows that, as we have written already, we think more emphasis needs to be placed on the environmental and social aspects of sustainability and, in line with the government's recent Natural Environment White Paper, that greater protection should be afforded to Greenfield sites and the wider countryside for their own sake.

We are also concerned that the requirements on local planning authorities to identify future housing land (and in particular more than is actually needed) will put pressure on Green Belt land not least while, at the same time, the established 'Brownfield' first' policy has been dropped. References merely to land of least environmental value do not seem to us sufficient to replace that and we would like to see it reinstated; anything other than an explicit preference for recycled land simply is not compatible with sustainable development.

15a. Natural and local environment : Does the policy relating to the natural and local environment provide the appropriate framework to protect and enhance the environment?

This section seeks, as it should (and in many respects as it is obliged to) to protect health and the environment from harm brought by development and, indeed, that development (or, at least, its users) from harm brought by its surroundings. That much is not new policy but it is no longer accompanied by the more detailed explanation of what that means, how to do it or, indeed, whose responsibility that is. In particular (and as we have pointed-out already), the key objective that development should not be determinable as 'contaminated land' on completion finds space only in a footnote while any reference to the standards by which that should be demonstrated and that doing that is the responsibility of the developer (as currently set out in Annex 2 of PPS23) have been entirely lost. Similarly, though para 173 contains the kernel of the NPSE, the noise exposure categories and other detailed guidance of PPG24 are omitted yet without that, the Framework appears to leave these matters to local negotiation (and, perhaps, litigation) and inevitable inconsistency. If it is acceptable in para 174 to mandate that decision-making should be consistent with a local (air quality action) plan, we wonder why similar mandates could not be included in the Framework in respect of local standards for other pollutants; it is only an acceptable Framework if it can be adequately filled-in.

Para 172 at least does now omit the claim that the planning and pollution control systems are separate. It still maintains the ambiguity in 'pollution control regimes', however, while it is important to distinguish between those which are predictive and those which are reactive, only the former providing the opportunity to impose conditions which should not need to be duplicated in planning consents.

17a. Impact Assessment: Is the impact assessment a fair and reasonable representation of the costs, benefits and impacts of introducing the Framework?

The Impact Assessment is actually a more complex document than the draft Framework and difficult to assess as a whole. It is notably speculative, however, and, we regret to say,

irrationally optimistic when it says (page 95) 'The government does not believe that growth has to be achieved at the expense of environmental protection.' We have also indicated many ways in which it does not appear to us that 'The Framework is carefully balanced to ensure that growth is achieved sustainably.' is correct.