



NATIONAL PLANNING POLICY FRAMEWORK (2018)

BRIEFING NOTE

This is our review of the NPPF (2018) in which we highlight key national policy changes and elements relating to residential and PRS developments. Whilst not offering a 'root and branch' reform there are a number of important key points, as well as concepts finalised within the revised policy guidance which clients should note.

The revised National Planning Policy Framework was published on 24 July 2018. The policies within the NPPF (2018) (as it is now generally being referred to by planning practitioners) are material considerations to be taken into account in determining planning applications from the day of its publication.

The NPPF (2018) is focused on housing delivery compared to the 2012 version of the NPPF which had an emphasis on promoting economic growth. Very clearly, the principle purpose of the NPPF (2018) is to expedite housing delivery.

Sustainable Development

As with the previous version of the NPPF, sustainable development remains as a principle at the heart of the document, albeit the revised text has been re-ordered to reflect current plan-making and decision-making processes.

Housing Need

The NPPF (2018) confirms the introduction of the backward-looking Housing Delivery Test, which comes into force from November 2018 in addition to the already established, forward looking, 5-year housing land supply. The Housing Delivery Test assesses the actual delivery of housing through measurement of the number of net homes delivered (including student houses and HMOs) against the number of homes required in a plan-making authority area. The Housing Delivery Test will be applied following the first publication of the results from the Government in November 2018.

The standard methodology for calculating Objectively Assessed Housing Need (OAHN) is to be used in determining housing targets. The unmet need from neighbouring areas should also be taken into account as with existing policy.

The NPPF (2018) seeks to encourage and support the implementation of housing through a variety of measures, including increasing 5-year housing land supply requirements through the implementation of a 10% buffer (a 20% buffer is required if housing delivery is persistently below the Housing Delivery Test for a period of three years).

The implementation of the presumption in favour of sustainable development will happen where the LPA cannot demonstrate a 5-year housing land supply or the Housing Delivery Test indicates delivery substantially below (75%) of the housing requirement (although transitory targets of 25% in 2018 and 45% in 2019 will be applied before the 75% target is applied going forwards from 2020).



Where housing delivery falls below 95% over three years, LPAs will be required to prepare an Action Plan to assess the causes of under-delivery and identify actions to increase delivery.

Small Sites Requirement

Small and medium sized sites (up to 1 ha) are identified as important contributors to meeting housing requirements. In a change from the draft NPPF LPAs will now have to accommodate at least 10% of housing requirements (a reduction from 20% previously proposed) on these sites to promote a good mix. In addition, LPAs should:

- Support the development of windfall sites;
- Work with developers to encourage sub-division of large sites where this could help speed the delivery of homes; and
- Support the development of entry-level exception sites, suitable for first time buyers (or those looking to rent their first home), unless the need for such homes is already being met within the authority's area.

Local Authorities are advised not to seek affordable housing on small sites (smaller than 10 units or 1,000 sqm floorspace). This aligns with the Government's Small Sites Policy - which many LPAs currently do not apply but who may now find it harder to avoid this requirement.

Making Effective Use of Land

The previously established principle of making the best use of the land is strengthened with a greater emphasis provided on the requirement to make effective use of land, particularly brownfield developments, including for example, converting space above shops, building on or above service yards, car parks, lock-ups and railway infrastructure; and using airspace above existing residential and commercial premises for new homes.

Upward extensions are encouraged where the development is consistent with the prevailing height and form of neighbouring properties and the overall streetscene and subject to other conditions such as good design and safe access/egress for occupiers.

LPAs are now required to take a flexible approach to policies relating to daylight and sunlight where it would inhibit making efficient use of the site, provided the resulting scheme provides acceptable living standards.

It is also confirmed that LPAs should refuse planning applications which they consider fail to make efficient use of land.

Affordable Housing

One of the most significant changes contained within the NPPF (2018) is the wider definition of affordable housing including, a greater emphasis of finding routes to home ownership rather than simply support for the rental market.

The revised definition confirms that affordable housing is considered as housing for those "*whose needs are not met by the market (including housing that provides a subsidised route to home ownership and/or is for essential local workers)*" which complies with at least one of the following:

- a) Affordable housing for rent which meets all of the following conditions: (a) the rent is set in accordance with the Government's rent policy for Social Rent or Affordable Rent, or is at least 20% below local market rents (including service charges where applicable); (b) the landlord is a registered provider, except where it is included as part of a Build to Rent scheme (in which case the landlord need not be a registered provider); and (c) it includes provisions to remain at an affordable price for future eligible households, or for the subsidy to be recycled for alternative affordable housing provision. For Build to Rent schemes affordable housing for rent is expected to be the normal form of affordable housing provision (and, in this context, is known as Affordable Private Rent).
- b) Starter homes (as specified in the Housing and Planning Act 2016 with specific definitions and eligibility criteria to be set out in secondary legislation).
- c) Discounted market sales housing (sold at discount of at least 20% below local market values).
- d) Other affordable routes to home ownership including:
 - Shared ownership;
 - Relevant equity loans;
 - Other low-cost homes for sale at least 20% below local market value with an eligibility based on local incomes and house price); and
 - Rent to buy (which includes a period of intermediate rent).

It is expected that some of the above definitions will require further clarification.

Notably, these changes mean that affordable private rent dwellings can be used as affordable housing provision for Build to Rent schemes. This should ensure greater flexibility and hopefully, a faster-pace of delivery across the Build to Rent sector.

Paragraph 64 confirms that major residential developments should provide at least 10% of the homes to be available for affordable home ownership (as part of the overall affordable housing contribution). Exceptions to this requirement include:

- The provision would exceed the level of affordable housing required in the area;
- Developments solely comprised of Build to Rent homes;
- Specialist accommodation;
- Self-build homes;
- The site is exclusive for affordable housing, an entry-level exception site or a rural exception site.

Design

The revised NPPF (2018) contains a greater emphasis on design policies which are considered instrumental in delivering new homes. There is a thrust towards encouraging LPAs to provide more detailed design guidelines based on local context and promoting placemaking within communities. The policies provide more emphasis and support for LPAs to increase the design quality of development. Notably, the previous requirement for LPAs to avoid unnecessary prescription or detail on design (much loved by planning consultants as a basis of rebuttal for LPA design comments) has now been removed.

Paragraph 130 now requires LPAs to make sure the quality of approved developments does not diminish between permission and completion as a result of changes being made to permitted developments.

Heritage

Relevant heritage policies remain largely unchanged. However, there is a slight change to the way the impact of proposed development on the significance of designated heritage assets is assessed. Paragraph 193 states that great weight should be given to the asset's conservation ... irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

Also notably, LPAs are now expected to maintain (or have access to) a Historic Environment Record (paragraph 187). Potentially one of the results of this may be an increased likelihood of discovering previously unidentified heritage assets.

Use of Viability Evidence

The NPPF (2018) has been published alongside new proposed guidance on viability and planning. This document includes a requirement that all viability assessments (where required) should be made publicly available.

The associated Planning Policy Guidance (PPG) for viability provides clarity to the viability process including setting out a number of key definitions. The landowner's returns will be firmly based on EUVs and the recommended developer's profit has been adjusted down from 20% on GDV in the draft NPPF to 15%-20% in the NPPF (2018).

The revised NPPF confirms (Paragraph 57) that where there are up-to-date policies within Development Plans which require contributions (including affordable housing) then it will up to the applicant to demonstrate whether the circumstances justify the need for a viability assessment at application stage. Notably, the PPG confirms that LPAs can refuse to accept the use of viability assessments against up-to-date Local Plan policies unless the applicant can demonstrate the particular circumstances justify the need for a viability assessment. In addition, support is given for review mechanisms to be introduced for any schemes where provision of planning obligations, including affordable housing, is reduced below policy compliant levels. However, there remains an ability to conduct site-specific viability assessments where sites/infrastructure costs demonstrably increase, economic performance changes significantly or if proposing Build-to-Rent or older person housing schemes.

Agent of Change Principle

Paragraph 182 confirms that planning policies and decisions should ensure that new development can be integrated effectively with existing businesses and community facilities (such as places of worship, pubs, music venues and sports clubs). Existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established. Where the operation of an existing business or community facility could have a significant adverse effect on new development (including changes of use) in its vicinity, the applicant (or 'agent of change') should be required to provide suitable mitigation before the development has been completed.



This principle clarifies the dispute between newly arriving residents and long-established businesses/community facilities. New residential development particularly adjacent or close to entertainment uses etc will be required to demonstrate in the application for planning permission what are the measures taken to mitigate or eliminate the impact. Equally, entertainment venues moving into an area adjacent to residential uses must ensure activities will not generate noise problems for the existing residents.

The *Agent of Change* principle is likely to raise particular scrutiny of evidence submitted in support of noise-sensitive development. It may also hinder new development if there is an unbalanced emphasis on the principle. Furthermore, an increase in the use of conditions and/or planning obligations to mitigate noise impacts and other nuisances could increase, possibly to the detriment of a scheme's viability.

For more information on the revised NPPF (2018) please do not hesitate to contact either:

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