

National Planning Policy Framework

Comments by the Campaign to Protect Rural England (CPRE) on the proposed draft issued by the Practitioner Advisory Group

June 2011

Summary

1. Following detailed analysis of the draft National Planning Policy Framework (NPPF) proposed by the Practitioner Advisory Group and the Government's preferred wording of the proposed presumption in favour of sustainable development, CPRE urges the Government to include in the consultation draft of the NPPF:
 - A redrafted presumption in favour of sustainable development to avoid undermining development plans and increasing the number of planning appeals.
 - A clear statement that the planning system should work to promote the public interest in the development and use of land and not merely to protect it.
 - A requirement to secure the efficient use of land for new housing, including giving preference to development on appropriate, previously-developed (brownfield) sites before greenfield, and avoiding low density urban sprawl.
 - Planning policies for minerals need clear objectives relating to environmental protection and restoration, as well as to supply and sustainable use.
 - Local authorities should not be discouraged from refusing development proposals on transport grounds where appropriate.
 - Clear undertakings on the need to protect high quality agricultural land and to maintain strict controls over outdoor advertisement.
 - A strong emphasis on protecting the wider countryside for its own sake and for its intrinsic value to ensure consistency with the recent Natural Environment White Paper.
 - Stronger policies to protect the Green Belt to ensure it is not undermined by the proposed presumption in favour of sustainable development.
 - Greater local discretion to apply the proposed Local Green Space designation, to match the freedom that London local authorities already have to use similar existing local designations.

These recommendations address the most urgent areas of concern for CPRE at this stage.

The presumption in favour of sustainable development

2. This is a key concern for CPRE. We welcome the clear definition of sustainable development as the integration of economic, environmental and social objectives. But although it is recognised that a core principle is that planning should be 'genuinely plan-led', we fear that crucial elements of the proposed draft text could seriously undermine the primacy of the development plan. For example, questions are likely to arise as to how development needs are 'objectively assessed', and when planning policies are to be deemed 'indeterminate', 'out of date' or 'silent'. CPRE fears that there is likely to be increasing resort to planning appeals and judicial review to resolve these issues. This would reduce the clarity and certainty of the planning system. Similarly, the suggestion that planning permission should be granted when a plan is 'absent' is likely to be an active incentive for prospective developers to mount legal challenges to, or seek to stall, the adoption of plans where the local authority has refused, or is likely to refuse, to allocate particular areas of land for development.
3. Currently, according to Planning Inspectorate figures, about a third (32%) of planning appeals are upheld and planning permission granted. If the presumption in favour of sustainable development is taken forward in its current form, and without greater

support for area-wide local planning, in CPRE’s view, this proportion is likely to increase significantly. The end result would be to frustrate the achievement of local objectives for development - the reverse of localism. It could also significantly add to the current cost of the appeals system (already £29 million in the year 2009/10). We are not convinced that, in the short term, the Government’s proposed neighbourhood plans will plug the policy gap in order to prevent a greater resort to appealing.

4. CPRE agrees with the Government that, in order for the planning system to be plan-led, the aim should be to secure comprehensive coverage of up to date local plans. Accompanied by a strong presumption in favour of development in accordance with a local plan, this should help reduce resort to planning appeals. As the Minister stated at Commons Report Stage on the Localism Bill: ‘We should move away from a system of planning by development control, where recourse is made to the Planning Inspectorate rather than local decision makers, which is how the future of our communities has been developed. I want fewer appeals to the Planning Inspectorate and more decided locally.’
5. Accordingly, CPRE recommends that the Government, through the NPPF and other measures, should include more positive incentives for local authorities to have an adopted area-wide local plan in place. First, payment of the New Homes Bonus should be tied directly and explicitly to the delivery of the local plan, as has been recommended by the Communities and Local Government Select Committee. Second, a more carefully worded presumption in favour of sustainable development should include strengthened references to the primacy of development plans in deciding planning applications. Consideration should also be given to an accompanying presumption against unsustainable development. We recommend a clear statement is needed in the NPPF, backed up by amendments to the Localism Bill, that planning appeals will only normally succeed in clearly defined circumstances, provided the local authority has justified refusal on grounds of contravening the development plan.
6. In CPRE’s view this requires significant changes to the draft text of the presumption in favour of sustainable development from that published by the Government on 15 June 2011. Our recommended alterations are shown below as tracked changes from the original text:

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.

Local planning authorities should:

- ~~_____~~ Prepare local plans on the basis that objectively assessed ~~and~~ agreed development needs should be met, and with sufficient flexibility to respond to rapid shifts in demand or other economic, social or environmental changes
- ~~_____~~ Approve development proposals that accord with statutory plans without reasonable delay and grant permission where the proposal accords with the NPPF definition of sustainable development and:
 - ~~_____~~ there is no prospect of an adopted plan within a reasonable timescale.
 - ~~_____~~ the plan contains conflicting, unclear or no policies material to the proposed development; or
 - ~~_____~~ relevant policies have been superseded by patterns of development or changes in any material considerations.

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All of these policies should apply unless ~~there would be~~ adverse impacts to ~~interests of acknowledged importance~~, which ~~include~~ policy objectives ~~set out in the National Planning Policy Framework~~.

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7. Our reasons for suggesting this changed text are as follows:

- For the presumption to be understood as being in favour of sustainable development, CPRE believes that there should also be a requirement for developers to demonstrate that their proposal is actually sustainable, and not merely that it does not have an adverse impact on the policies in the NPPF.
- The policy should recognise cases where a local authority has made significant progress towards adopting a plan, and that delays to planning decisions can often be caused primarily by the actions of developers rather than local authorities. The draft wording could be taken to suggest that a local authority would be generally required to grant permission unless a plan had actually been adopted, or even in cases where delay had been caused by developer intransigence.
- It should be specific about why a plan might have been superseded, rather than using the term ‘out of date’ which is particularly likely to result in greater resort to appealing or a raft of litigation, not only in relation to individual applications but potentially also to the adoption of plans.
- The formula ‘interests of acknowledged importance’ was used in connection with the former policy presumption in favour of development that existed up until the 1990s. We believe that it should be reinstated here as it will not always be possible for all potential adverse impacts to be captured by the NPPF, especially if the NPPF is a succinct statement as Ministers intend.

8. The draft NPPF proposed by the Practitioner Advisory Group also appears to take a narrow view of the concept of the public interest, stating that it should only be ‘protected’ rather than actively furthered. We have already made detailed comments on this issue in our earlier general submission on the NPPF in February 2011. We welcome the Minister’s acknowledgement of this important issue in his 14 July speech to the 2011 Planning Convention and we urge the Government to incorporate the statement ‘the planning system operates to control the development and use of land in the public interest’ into the forthcoming consultation draft of the NPPF.

Planning for housing

9. We believe that the ‘brownfield first’ approach to housing development, which built on policies introduced in the early 1990s based on the benefits of land recycling, is one of the greatest unsung environmental successes of recent years. As mentioned in our pre-consultation submission, we are aware of concerns relating to the brownfield first approach to development as expressed in PPS3 that this policy has led to ‘garden grabbing’, and over-densification in some neighbourhoods. This problem has been addressed, however, by a change to the definition of previously-developed land introduced in June 2010.

10. The ‘brownfield first’ policy has enabled hundreds of thousands of new dwellings to be built with minimal loss of countryside, either directly through loss of greenfield land or indirectly through reduced aggregate extraction. It has led to minimised carbon emissions both from construction (such as using existing buildings and avoiding major earthworks), and by virtue of reducing the need to travel. It has also provided a supportive framework for urban regeneration that has seen economic, environmental and social vibrancy return to many of England’s towns and cities. The Government has recognised the benefits of prioritising previously developed land for new housing in its current proposals to remove the requirement to apply for planning permission for changes from commercial to residential uses. For example, paragraph 4 of the consultation paper states: ‘The proposals will also promote regeneration of commercial land, and help bring empty commercial buildings back into productive use.’

11. In line with the Government's commitments to the localism agenda and to sustainable development, we believe that the NPPF should recognise the benefits of the reoccupation of empty dwellings and the redevelopment of previously-developed land to meet development needs, before greenfield sites are considered. Alongside this, the NPPF should also incorporate current policies in PPS9 ensuring that natural capital on brownfield sites is retained as far as possible. This would allow local authorities to set their own policies and targets for brownfield reuse, according to local circumstances.
12. We note that the Practitioners' proposed draft states that local authorities should be allowed to 'set out their own approach to housing density'. Within the context outlined above, we recommend that the consultation draft NPPF goes further than this and includes the following statements:
- Where housing need is identified, it should be met through planning sustainable patterns of development which first requires the reuse of empty homes, second the redevelopment of previously-developed sites, and finally, where other options have been exhausted by the efficient development of greenfield sites selected for their sustainability.
 - Local planning authorities should set policies for the reuse of previously-developed land in their areas. These policies could include a target for land recycling, along with targets to ensure the efficient use of land. Sites that, if developed for new housing, would help support the viability of existing local shops and public transport services, or create sufficient demand for new shops and services should be prioritised.
 - Proposals which demonstrate an efficient use of land for housing, at medium (30-50 dwellings per hectare) or high density (above 50 dwellings per hectare) are preferred to low density development proposals. A medium density allows for between 30 and 50 dwellings per hectare, fewer than a typical Edwardian suburb, therefore making efficient use of land while not compromising on the need for green spaces or a mix of types of housing.

Minerals

13. CPRE is particularly concerned at the overall narrowness of the draft minerals policy, which seeks to reduce policy objectives to supply and sustainable use. As a minimum we call on the Government to retain the following objectives stated in MPS1:
- to protect internationally and nationally designated areas of landscape value and nature conservation importance from minerals development, other than in exceptional circumstances;
 - to promote the sustainable transport of minerals by rail, sea or inland waterways; and
 - to protect and seek to enhance the overall quality of the environment once extraction has ceased, through high standards of restoration, and to safeguard the long-term potential of land for a wide range of after-uses.

14. We also refer the Government to the more detailed submission we made on this issue in March 2011.

Transport, street clutter and outdoor advertisements

15. Although there are positive phrases in the Practitioners' proposed draft relating to transport, the frequency of the caveat 'where practical' and, in particular, the assertion that applications 'should not normally be refused on transport grounds' would make it extremely difficult for local authorities to shape the transport patterns of their

areas. This is likely to mean a significant step backwards in terms of promoting sustainable transport through the planning system, jeopardising targets to reduce carbon emissions by reducing the need to travel or obesity by significantly increasing physically active travel.

16. There is great potential for better integration of spatial and transport planning to deliver more attractive and vibrant streets that are not choked with motor traffic or cluttered with signs. The proposed draft fails to consider the social strand of sustainability in relation to transport, however. The failure to consider the need to support existing and encourage new key local facilities, other than in new developments, is concerning. Local shops and services outside town centres need to be protected if walkable communities are to be promoted. Better guidance in terms of designing out road danger and making sustainable forms of travel more competitive, such as through filtered permeability, is needed.
17. CPRE also urges that the consultation draft NPPF promotes the effective control of advertisements and street clutter. Advertisement control has been a key tool in managing and minimising the amount of clutter in town and country since the introduction of the regulations in 1948. The proposed draft of the NPPF makes no reference to this issue. The clear direction provided by current Government policies for planning inspectors dealing with advertisement appeals would be lost if the proposed draft was taken forward as Government policy. Similarly, there is no reference made to minimising other forms of street clutter, of which the most common type is instructional road signage erected by local highway authorities.
18. This sits oddly with the Secretary of State's call on 26 August 2010 'to get rid of unnecessary signs, railings and advertising hoardings in a bid to make streets tidier and less confusing for motorists and pedestrians'. Currently the most up to date and useful statement of Government planning policies on addressing unauthorised advertisements alongside major roads is contained within a 'guidance' document, Circular 03/2007. We urge that Circular 03/2007 is retained in its entirety and reviewed separately at a later date along with other Circulars. The consultation draft NPPF should set out the Government's approach to amenity and public safety in advertisement control (summarising paragraphs 11 to 15 of the current PPG19), and in particular discourage the use of advertisements alongside major roads, along the lines of the final sentence in paragraph 148 of Circular 03/2007.

Landscape and the wider natural environment

19. CPRE firmly believes that the protection of the wider countryside 'for its own sake' should be included in the final NPPF, possibly by re-using the wording that currently appears in Policy EC6.1 of PPS4:

“Local planning authorities should ensure that the countryside is protected for the sake of its intrinsic character and beauty, the diversity of its landscapes, heritage and wildlife, the wealth of its natural resources including soil and food production capacity, and to ensure it may be enjoyed by all.”
20. We advocate this for three reasons. First, it would deliver on the undertaking in the June 2011 White Paper *The Natural Choice: securing the value of nature* (the Natural Environment White Paper, paragraph 2.35) to 'retain protection and improvement of the natural environment as core objectives for local planning and development management.' As the White Paper also makes clear, open countryside, forests and farm land are included in the definition of 'the natural environment' without any caveats or exclusions. The draft NPPF is glaringly inconsistent with this approach, narrowing the definition of 'valued landscape' to green infrastructure networks, undeveloped coastline, best and most versatile agricultural land, and nationally designated landscapes. CPRE believes fundamentally that all of these areas deserve strong levels of

protection and improvement but to focus only on these areas in the NPPF would leave the majority of the English countryside largely unprotected.

21. Second, it would be clear evidence of the UK meeting its commitments under the European Landscape Convention, to which the proposed draft makes no reference. Third, CPRE believes that the countryside and wider natural environment has a value to society that currently cannot be accurately measured (particularly in monetary terms), even though much has been done to develop the concept of ecosystem services.
22. We are also disturbed by the proposed draft policy on best and most versatile (BMV) agricultural land, which in our view would be a weakening of current policy in PPS7 in 2003. This is contrary to undertakings in both the 2010 Conservative Party Green Paper *Open Source Planning* that 'We will introduce into our national planning framework rules preventing the development of the most fertile farmland, in all but exceptional circumstances' and in paragraph 2.35 of the Natural Environment White Paper. It is also relevant that the report of the Defra Independent Farming Regulation Task Force, published in May 2011, called for the NPPF to 'explicitly support sustainable and productive farming'.
23. Accordingly, we recommend the inclusion of the following policy in the consultation draft NPPF: 'The best and most versatile land (footnote as per draft) should be protected as a national resource for future generations. It should be developed only exceptionally and when opportunities have been fully assessed for accommodating development needs elsewhere.' The text in the proposed draft that states 'take into the account the presence of the best and most versatile land' and 'or the Local Plan's growth strategy' is unacceptably weak and should be deleted.
24. We welcome the clear statement in the proposed draft about avoiding isolated new housing in the countryside. CPRE does not, however, see any justification for a specific point on 'exceptional quality' design, and we suggest it be deleted. Proponents of such schemes should instead be encouraged to work through the neighbourhood planning process, so that they can be justified in relation to the wider community of which they are part.

Tranquillity and light pollution

25. Some elements of the proposed draft suggest a welcome new policy direction, but in CPRE's view still require significant work before they can be considered fit for purpose as national planning policies. A particular case in point is the reference to tranquillity. We believe that the consultation draft NPPF should define tranquillity more broadly to include relative lack of disturbance from light pollution and visual intrusion (as well as from noise nuisance) and we would welcome the opportunity to collaborate further on this. The NPPF should also include specific policies on reducing light pollution, in line with commitments in *The Natural Choice*, and on promoting the enhancement of tranquillity as well as protection in particular areas.
26. We believe that, first, lighting for new developments, and changes to lighting on existing developments, should be subject to planning permission. This would ensure that only necessary lighting would be installed and that light pollution should be minimised. Consideration should also be given to energy efficiency and potential cost savings of carefully planned lighting schemes. Second, local authorities should be encouraged to develop lighting policies for their area. Third, local authorities should be reminded of their duty to enforce the statutory nuisance provisions relating to lighting (section 102) in the *Clean Neighbourhoods and Environment Act 2005*.
27. Strong policies in the NPPF on light pollution would enable local authorities to plan for new housing or economic development while minimising, and potentially also reducing, overall levels of lighting. This could help local communities save money as well as

carbon emissions. According to data compiled by CPRE, from 1993 to 2000 light pollution in England increased by a quarter (26 per cent) and the amount of light-saturated night sky rose to 7 per cent. Councils spend a collective £532 million on street lighting each year, which is likely to have increased over time as a result of both higher overall use of lighting and increasing wholesale electricity prices. Street lights in turn can account for around 5-10 per cent of a council's carbon emissions.

Green Belt and open space

28. CPRE welcomes much of the treatment of Green Belt policy in the Practitioners' proposed draft. We strongly support the retention of the explicit presumption against inappropriate development in the Green Belt. This policy has been central to the effectiveness of Green Belts in keeping land open over the past 50 or more years. There are however some key elements missing which need to be retained if the NPPF is to demonstrate the Government's commitment to maintaining protection of the Green Belt. CPRE supports more positive planning for beneficial land use in the Green Belt, but it is vital that this happens in a manner consistent with the primary purposes of Green Belt policy, with the primary purposes take precedence in the event of any conflict between the purposes and development proposals promising land use benefits. The proposed draft is not sufficiently clear on this issue. Further details on areas of Green Belt policy where changes are needed from the proposed draft are included in Annex B below.
29. We welcome the proposal in the draft to give the promised new Local Green Space designation the same level of protection as Green Belt. We are concerned that there is a heavily restrictive approach to both creating new areas of Green Belt and to the application of the new designation. There is a clear contradiction here, in our view, with the Minister's stated intention that the NPPF should be 'localist'.
30. CPRE is concerned that the text in the draft NPPF suggests that local communities will only be able to designate land as Local Green Space if it does not conflict with local authority plans for 'sustainable development', investment in homes, jobs and other essential services. This could be interpreted as communities only being able to designate parcels of land that the local authority does not plan to develop in the foreseeable future. The proposed draft NPPF also does not mention existing local landscape designations, e.g. Areas of Great Landscape Value, and how these designations will sit alongside the new Local Green Space designation. This needs to be rectified.
31. As the new designation will have the same weight as Green Belt, this may mean that local areas that are currently designated under local landscape designations are deemed as an easier target for development proposals. The NPPF should address the relationship between existing local designations and the new Local Green Space designation. To be meaningful we believe that communities should be able to promote sites for the new designation at the outset of the local plan process, and not after site allocations in development plans have been decided in principle.
32. We note that the model for the new designation appears to be Metropolitan Open Land (MOL), a planning designation used in London to designate strategic areas of green space, which importantly can vary in size (London Plan paragraph 3.302). We welcome the proposed scope for the designation to be used in neighbourhood plans for assets of importance to particular communities. We believe, however, that the designation should be capable of use, as is currently the case in London, for wider areas of open space or countryside at a more strategic level. Ultimately, there may also be cases where a new Green Belt, rather than Local Green Space, is required (see also our comments at Annex B on new areas of Green Belt).

33. Accordingly we recommend that the final NPPF should not include a presumption against designating extensive tracts of land as Local Green Space. Rather, it should state that if local authorities intend to use the designation on larger tracts of land, this should be justified in terms of strategic significance, which could be demonstrated by serving a wide catchment area or drawing visitors from several surrounding districts, as is currently the case in London. More extensive designations should also come about as a result of co-operation between any relevant local planning authorities.

The future of guidance

34. The letter to the Minister from the Practitioner Advisory Group suggests that it has largely sidestepped the issue of Circulars and best practice guidance. Until this is addressed, CPRE believes that the NPPF should include a statement that current Planning Circulars remain in force and best practice guide remain relevant. It should also provide policy on the weight to be attached to Circulars and best practice guidance in future.

CPRE, June 2011

ANNEX B: NPPF GREEN BELT POLICY - detailed comments and recommendations

Objectives

We recommend adding a sentence following on the opening one which states: 'It has been shown that Green Belts are effective in managing patterns of urban development and providing many of the benefits of attractive countryside close to large towns and cities'. This would underline the Government's commitment to Green Belts and their effectiveness.

The relationship between Green Belt purposes and beneficial land use is used by some in an attempt to undermine the effectiveness of Green Belts. To address this, the draft needs an additional sentence before the one beginning 'once Green Belts have been defined' along the following lines 'The purposes of Green Belt are of paramount importance to, and the material factors in, their continued protection'.

The list of beneficial land uses should also be extended to include agriculture / forestry (as in the current PPG2), and carbon sinks and urban heat mitigation (as in the Welsh guidance).

A national map showing current designated areas of Green Belt in outline form should also be included and cross-referenced in the NPPF, similar to that which appears in the current PPG2.

Designation:

In the sentence beginning 'The general extent', we recommend add 'existing' before 'Green Belts'.

The sentence beginning 'it should not be necessary...' to designate new Green Belts should be deleted (which would have the benefit of reducing the guidance further) or amended. CPRE accepts that the creation of new Green Belts should be subject to stringent policy tests but we believe that there may be a case for new Green Belts in a limited number of specific areas of the country. The NPPF should not attempt to prejudge or prevent local debate on whether a new Green Belt is necessary in individual cases.

Sentence beginning 'When defining boundaries' we recommend adding a bullet to the list stating 'demonstrate consistency with Local Plans for adjoining areas, particularly those which cover or adjoin the same designated Green Belt'. This is vitally important for us and would make the policy consistent between the tests for new and existing Green Belts.

Third page:

This covers the 'control over development' section of PPG2 and should use this as a subtitle.

At end of sentence beginning, 'A local planning authority should regard', add 'and as a departure from the development plan' as in paragraph 3.3 of the current PPG2.