Planning Briefing Note: Revised National Planning Policy Framework (July 2018)

Introduction

The Government has published a suite of new documents to reform the planning system and significantly boost the supply of housing. New documents include the revised NPPF and a number of revisions to Planning Policy Guidance (PPG) including, the Housing Delivery Test, viability and the Housing and Economic Development Needs Assessments.

Tetlow King Planning view on the revised NPPF (July 2018)

“We support the Government’s commitment to significantly boost the supply of housing and we agree that a sufficient amount and variety of land should be made available to deliver this and support the delivery of a wide range of home ownership opportunities.”

Revised NPPF (July 2018)

Sustainable development

The presumption in favour of sustainable development requires plan-making to be a positive system, planning positively to seek opportunities to meet an area’s development needs, and to be sufficiently flexible to adapt to rapid change. Strategic plans are strongly encouraged to provide for objectively assessed needs as a minimum. Decision makers are directed to approve development proposals that accord with plans without delay where these are up-to-date.

Neighbourhood Plans

There is now more emphasis on the need for development to comply with neighbourhood plans and for those plans to support the delivery of strategic plans with at least the same level of development as set out at the strategic level.

Paragraph 14 states that where the presumption in favour of development applies for housing development the adverse impact of allowing development that conflicts with made neighbourhood plans is likely to significantly and demonstrably outweigh the benefits, provided all the following apply:

- if a neighbourhood plan became part of the development plan two years or less before the date on which the decision is made
- if the neighbourhood plan contains policies and allocations to meet its identified housing requirement,
• the local authority has at least a three -year housing land supply and its housing delivery was at least 45% of that required over the previous three years, then development proposals which conflict with the neighbourhood plan should be refused.

However, even then it may be deemed that the impact may not be adverse enough to outweigh benefits and planning permission will be refused.

**Plan-making**

*Strategic policies*

Local Planning Authorities (LPAs) are now encouraged to produce shorter plans that only address strategic priorities as a mechanism to help speed up plan production.

*Examining plans*

The tests of soundness have been revised so that the Local Plan should be ‘an appropriate strategy’ not ‘the most appropriate strategy’.

*Preparing and reviewing plans*

Paragraph 33 sets out a requirement for LPAs to review policies at least once every five years to see if they need to be updated. Relevant strategic policies will need updating at least once every five years or if their applicable local housing need figure has changed significantly.

**Delivering a sufficient supply of homes**

LPAs will not be able to apply affordable housing policies to sites of less than 10 dwellings as set out in paragraph 63 except in designated rural areas (where policies may set out a lower threshold of five units or fewer).

Paragraph 64 requires major development involving the provision of housing to provide at least 10% of the homes to be available for affordable home ownership, unless this would exceed the level of affordable housing required in the area, or significantly prejudice the ability to meet the identified affordable housing needs of specific groups. Exemptions to this 10% requirement should also be made where the site or proposed development:

• provides solely for Build to Rent homes;
• provides specialist accommodation for a group of people with specific needs (such as purpose-built accommodation for the elderly or students);
• is proposed to be developed by people who wish to build or commission their own homes;
• is exclusively for affordable housing, an entry-level exception site or a rural exception site
Identifying land for homes

The revised NPPF puts the emphasis on LPAs to 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. These sites should be on land which is not already allocated for housing and should:

- comprise of entry-level homes that offer one or more types of affordable housing; and
- be adjacent to existing settlements, proportionate in size to them, not compromise the protection given to areas or assets of particular importance and comply with any local design policies and standards.

Tetlow King Planning view on the revised NPPF (July 2018)

“It is disappointing to see that National Parks (or within the Broads Authority), Areas of Outstanding Natural Beauty or land designated as Green Belt sites are excluded from entry level sites as there are first time buyers and renters who want to stay within the villages and areas where they were born and with this policy approach will be unable to do this and will have to move away from family and friends.”

Maintaining supply and delivery (the 5-year housing land supply)

LPAs should identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years of housing against the housing requirement set out in adopted strategic policies, or against the local housing need where the strategic policies are more than five years old (paragraph 73). The supply of specific deliverable sites should in addition include a buffer:

- 5% to ensure choice and competition in the market for land; or
- 10% where the local planning authority wishes to demonstrate a five-year supply of deliverable sites through an annual position statement or recently adopted plan, to account for any fluctuations in the market during that year; or
- 20% where there has been significant under delivery of housing over the previous three years, to improve the prospect of achieving the planned supply.

Paragraph 75 sets out that to maintain the supply of housing, LPAs should monitor progress in building out sites which have permission. Where the Housing Delivery Test indicates that delivery has fallen below 95% of the LPAs housing requirement over the previous three years, the LPA should prepare an action plan in line with national planning guidance, to assess the causes of under delivery and identify actions to increase delivery in future years (for further information on the Housing Delivery Test (please see the relevant section below).
Making effective use of land

The NPPF seeks to promote effective use of land and in particular make more effective use of under-utilised and previously developed land.

Paragraph 118 sets out opportunities for previously developed land in urban and rural area, key points include:

- Encouragement will be given to mixed used schemes and net environmental gains;
- Substantial weight should be given to brownfield land within settlements for homes and other identified needs;
- Development of under-utilised land and buildings, especially if this would help to meet identified needs for housing where land supply is constrained, and available sites could be used more effectively will be supported and promoted;
- Development opportunities to use the airspace above existing residential and commercial premises for new homes will be supported.

Paragraph 120 requires LPAs to take a proactive approach to reallocating or deallocating land for which there is no reasonable prospect of the allocated use coming forward. Further, Paragraph 21 expects LPAs to take a positive approach to applications for alternative uses of land which is currently developed but not allocated for a specific purpose in plans, where this would help to meet identified development needs.

Tetlow King Planning view on the revised NPPF (July 2018)

“We welcome the emphasis on using under-utilised and previously developed land and the requirement for LPA’s to be proactive and supportive of reallocating or deallocating land for which there is no reasonable prospect of the allocated use coming forward”.

Achieving appropriate densities

LPAs are encouraged to ‘optimise’ the use of land in their area by adopting policies on minimum densities for town and city centres and other locations which are well served by public transport so as to secure a ‘significant uplift in the average density of residential development within these areas’.

Green Belt

Importance of Green Belt policy has been increased with emphasis on LPAs considering all reasonable alternatives before allocating Green belt sites. Once established, Green Belt boundaries should only be altered in exceptional circumstances, through the preparation or
updating of Local Plans. Paragraph 137 requires LPAs to consider the following before making any amendments to Green Belt policies:

- making as much use as possible of suitable brownfield sites and underutilised land;
- optimising the density of development, including whether policies promote a significant uplift in minimum density standards in town and city centres, and other locations well served by public transport; and
- holding discussions with neighbouring LPAs to determine if they can accommodate the identified need as demonstrated through a statement of common ground.

Where Green Belt boundaries changes have been demonstrated through a strategic plan, detailed amendments to those boundaries may be made through local policies, including neighbourhood plans.

Paragraph 145 sets out the exceptions to Green Belt policy including criterion ‘g’ which allows limited in-filling in villages or the partial or complete redevelopment of previously developed land which would contribute to meeting an identified local affordable housing need, not cause substantial harm to the openness of the Green Belt.

Tetlow King Planning view on the revised NPPF (July 2018)

“The Green Belt policy text has not significantly changed from the 2012 NPPF text, however criterion ‘g’ is welcomed as this sets a supportive and encouraging approach to the delivery of affordable housing in areas covered by the Green Belt, where housing need is equally intense.”

**Affordable housing**

The new Affordable Housing definition extends the definition of Affordable Rent to include Build to Rent units marketed at an affordable rent, Starter Homes, Discounted Market Sales housing and ‘other affordable routes to home ownership’.

**Transitional arrangements**

A transition period is to be set out, enabling those plans at or submitted for examination to be considered against the former (2012) NPPF policies up to six months after the publication of the new NPPF (by 24 January 2019).
Summary of other revisions or key changes contained within the NPPF

- Reference to elected Mayors and combined authorities (with plan making powers) having the ability to bring forward a strategic plan;
- Local validation checklists for planning applications should contain minimal requirements and be reviewed at least every two years;
- Further emphasis that planning conditions should be the minimum necessary to make development acceptable, and an indication that pre-commencement conditions should be avoided unless there is a clear justification. Additionally, changes are expected in regulations requiring prior written agreement of applicants before pre-commencement conditions can be imposed;
- Introduction of a new standardised housing need assessment – details are set out in the PPG;
- Proposals for at least 10% of homes on 10+ dwelling schemes to be for affordable home ownership, unless this would exceed the level of affordable housing required in the area, or significantly prejudice the ability to meet the identified affordable housing needs of specific groups, with exemption for rural exception sites, Build to Rent schemes and specialist housing proposals (such as for the elderly or students);
- Strategic plans are to provide a housing requirement figure where possible, or an indicative figure, if requested to do so by the neighbourhood planning body for neighbourhood areas;
- At least 10% of sites identified for housing development in a Strategic Plan are to be half a hectare or less and local authorities are to work with developers to sub-divide large sites to speed up the delivery of housing;
- Introduction of a new concept ‘entry level exception sites’ – suitable for first-time buyers or those looking to rent their first home, adjacent to existing settlements and which must comprise a high proportion of such homes;
- Greater encouragement for pre-application engagement with LPAs and local communities – those schemes demonstrating effective engagement ‘should be looked on more favourably’;
- Expect all viability assessments to be open-book, based on the Government’s definition of key factors, and publicly available;
- Adding greater weight to the policy on Green Belts, placing a greater requirement to consider all reasonable alternatives first, and greater protection to ancient woodland;
• Recognition that development opportunities should be sought in Conservation Areas and World Heritage Sites, and within the setting of heritage assets.

Tetlow King Planning view on the revised NPPF (July 2018)

“There are positives in the revised NPPF however there are also disappointments and missed opportunities. The current policy and guidance in the NPPF and PPG lacks detail, clarity and there is no priority accorded to the delivery of older persons’ housing as a material planning consideration. We acknowledge that the PPG has been strengthened in recent years however, the lack of policy direction means that LPAs are failing to plan for specialist housing and this is contributing to a planning ‘vacuum’ at a time when our population is rapidly ageing.

There is no consideration of the significant health and social benefits of specialist housing provision. Those benefits were recognised by the second report of session 2017-2019 of the House of Commons Communities and Local Government Committee on Housing for Older People (February 2018), to which Tetlow King Planning provided written evidence.

This is a real missed opportunity especially when the Local Government Association Report ‘Housing Our Ageing Population’ (2017) states that by 2035 there will be an estimated shortfall in housing and care provision of nearly 400,000 purpose-built units.”

Planning Practice Guidance (March 2012 and updated 24 July 2018)

The PPG is currently being updated to reflect the changes to the revised NPPF (July 2018). This includes guidance on viability and on housing and economic development needs. On 24 July 2018, the following amendments were made to the PPG:

• New guidance has been published in the PPG which sets out the key principles in understanding viability in plan making and decision taking. The guidance states that plans should set out the contributions expected from development and these policies should be informed by evidence of infrastructure and affordable housing need, and a proportionate assessment of viability that takes into account all relevant policies, and local and national standards, including the cost implications of the Community Infrastructure Levy (CIL) and section 106. Policy requirements, particularly for affordable housing, should be set at a level that takes account of affordable housing and infrastructure needs and allows for the planned types of sites and development to be deliverable, without the need for further viability assessment at the decision-making stage. Importantly, the Guidance states that the viability of plans does not require individual testing of every site or assurance that individual sites are viable. Plan makers can use site typologies to determine viability at the plan making stage. Assessment of samples of sites may be helpful to support evidence.
• New guidance has been added to the PPG to guide LPAs on how to assess their housing and economic development needs. The Guidance states that the Government is aware that lower than previously forecast population projections have an impact on the outputs associated with the method. Specifically, it is noted that the revised projections are likely to result in the minimum need numbers generated by the method being subject to a significant reduction, once the relevant household projection figures are released in September 2018. Therefore, the Government are considering adjusting the method to ensure that the starting point in the plan-making process is consistent in aggregate with the proposals in Planning for the right homes in the right places consultation and continues to be consistent with ensuring that 300,000 homes are built per year by the mid-2020s. The guidance also includes guidance on how to calculate a minimum annual housing need figure using the standard method.

The Housing Delivery Test

The Housing Delivery Test is an annual measurement of housing delivery for local authorities, except for National Park Authorities, the Broads Authority or to development corporations without full plan-making and planning decision making powers. The ‘presumption in favour of sustainable development’ at paragraph 11 states that that the presumption will apply where housing delivery is below 75% of the requirement; in line with the Housing Delivery Test. LPAs which fail the test will have to publish a statement to ‘fix’ the housing supply for one year.

The Housing Delivery Test will apply from November 2018. There will be transitional arrangements in place for 2018 and 2019, which are set out below:

• November 2018 - If delivery falls below 25% of housing required over the previous three years;
• November 2019 - Indicate that delivery was below 45% of housing required over the previous three years;
• November 2020 and in subsequent years - Indicate that delivery was below 75% of housing required over the previous three years.

Where delivery falls below the above figures or if delivery falls below 95% over three years from 2020 then LPAs are required to prepare an action plan to assess the causes of under-delivery and identify actions to increase deliver

If you would like any further information or if you would like to discuss how the revised NPPF may impact upon potential developments, please contact us: 0117 9561916 or all@tetlow-king.co.uk