Unwrapping the Updates: A Review of the New National Planning Policy Framework

The long awaited updated National Planning Policy Framework has finally dropped, and just in time for Christmas. The Government released substantive changes on 19th December 2023 then a further minor amendment to paragraph 14b on 20 December 2023. The full version can be accessed here: National Planning Policy Framework - GOV.UK (www.gov.uk).

Before outlining some of the key changes, it's worth taking a brief glance at the ministerial statement made by Michael Gove to understand how the changes fit in with the Government's long-term plan for housing. The full statement can be read here: Written statements - Written questions, answers and statements - UK Parliament but essentially breaks the Government's focus down into 5 key strategic areas:

- Beauty
- Infrastructure
- Democracy
- Environment
- Neighbourhood

In its delivery of "BIDEN" (I'm unsure if this was intentional!), the Government has made several promises for immediate action, alongside various changes in the NPPF. These include launching a three-month review of the broader statutory consultee system, intervening against underperforming LPAs, and publishing a performance dashboard to enhance transparency. However, as this is ultimately a political statement, it should be read with some apprehension.

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With that in mind, I have produced a short summary of some of the key takeaways from the updated NPPF, focusing on housing. This is by no means an exhaustive list of all the changes as it will take some time to digest and understand how the changes operate in practice. Accordingly, there will undoubtedly be deeper analysis with varying interpretation as we see the revised NPPF scrutinised across the board. I have extracted some of the key paragraphs with a short comment below.

Urban Uplifts

[62] "The standard method incorporates an uplift which applies to certain cities and urban centres, as set out in national planning guidance. This uplift should be accommodated within those cities and urban centres themselves except where there are voluntary cross boundary redistribution agreements in place, or where it would conflict with the policies in this Framework".

Firstly, in respect of Urban Uplifts the amendment is plainly aimed at the Government promoting more urban development, with larger cities showing a 35% increase in their administrative area, unless agreements with neighbours come about. This fits in with the Government's agenda however, the deliverability of this might cause challenge in the context that a large majority of these cities are surrounded by Green Belt whereby their boundary may only be altered in exceptional circumstances. It will therefore be interesting to see how the larger cities will meet this target.

Retirement Housing, Housing with Care and Care Homes

[63] "Within this context of establishing need, the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies. These groups should include (but are not limited to) those who require affordable housing; families with children; older people (including those who require retirement housing, housing-with-care and care homes); students; people with disabilities; service families; travellers; people who rent their homes and people wishing to commission or build their own homes".

This amendment is worth a highlight and will be welcomed by retirement living developers. It further clarifies and demonstrates support for those who require retirement housing, acknowledging its significance as an incredibly important housing category.

Advisory Targets

[61] "To determine the minimum number of homes needed, strategic policies should be informed by a local housing need assessment, conducted using the standard method in national planning guidance. The outcome of the standard method is an advisory starting-point for establishing a housing requirement for the area (see paragraph 67 below). There may be exceptional circumstances, including relating to the particular demographic characteristics of an area which justify an alternative approach to assessing housing need; in which case the alternative approach should also reflect current and future demographic trends and market signals. In addition

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to the local housing need figure, any needs that cannot be met within neighbouring areas should also be taken into account in establishing the amount of housing to be planned for".

The advisory starting point is now used to assess housing requirements, thus reducing its significance. However, adopting an alternative method is only acceptable under exceptional circumstances. I am certain these circumstances will undergo further examination to determine the necessary threshold.

Maintaining Supply and Delivery

[76] "Local planning authorities are not required to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing for decision making purposes if the following criteria are met:

1. a) their adopted plan is less than five years old; and

2. b) that adopted plan identified at least a five year supply of specific, deliverable sites at the time that its examination concluded".

A five-year supply remains but is not *required* provided that firstly the adopted plan is less than five years old and - crucially - it can be demonstrated at the time of examination in accordance with 76(b) that the adopted plan identified a five-year supply of specific and deliverable sites. This will place an onus on LPAs to produce evidence if they are to benefit from not maintaining a five-year supply.

Interestingly, there is also change for LPAs who are at the regulation 18/19 stage (with allocations) to drop to demonstrating a four-year supply:

[77] "In all other circumstances, local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide either a minimum of five years' worth of housing, or a minimum of four years' worth of housing if the provisions in paragraph 226 apply".

It should be noted that this is a transitional change for a two-year period is only really aimed at LPAs who want to move to a lower housing target. It should also be noted that, while the Housing Delivery Test remains in place, if an LPA is not required to demonstrate a five-year supply (paragraph 76), or if a four-year supply is permitted (paragraph 77), then the consequences of the delivery test fall away.

Notwithstanding this, there is still a strong message that preparing and maintaining up-to-date plans should be seen as a priority:

[1] "The National Planning Policy Framework sets out the Government's planning policies for England and how

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these should be applied. It provides a framework within which locally-prepared plans can provide for sufficient housing and other development can in a sustainable manner. Preparing and maintaining up-to-date plans should be produced seen as a priority in meeting this objective."

The message from the Government appears to be that performing LPAs will be rewarded and incentivised to meet targets with the option of having relaxed policy compliance. On the contrary, for authorities who have failed to adopt a plan or submit a draft plan for examination (those underperforming), the Secretary of State has intervened. Stricter requirements have been imposed, and LPAs are now required to revise their Local Development Scheme within 12 weeks of the revised NPPF publication. For the full list please see here: Local Plan intervention: Secretary of State letters to 7 local authorities - GOV.UK (www.gov.uk). This coupled with Gove's statement of a "performance dashboard" will produce further *naughty lists*.

Green Belt

[145] Once established, there is no requirement for Green Belt boundaries to be reviewed or changed when plans are being prepared or updated. Authorities may choose to review and alter Green Belt boundaries where exceptional circumstances are fully evidenced and justified, in which case proposals for changes should be made only through the plan-making process. Strategic policies should establish the need for any changes to Green Belt boundaries, having regard to their intended permanence in the long term, so they can endure beyond the plan period. Where a need for changes to Green Belt boundaries has been established through strategic policies, detailed amendments to those boundaries may be made through non-strategic policies, including neighbourhood plans".

The next change I would like to draw on is the Green Belt. This is quite a big shift in policy whereby boundaries no longer need to be reviewed. Given the context of urban uplifts, complications may arise when boundaries can only be altered under exceptional circumstances and could lead to overpopulated urban areas, or a halt on housing delivery targets. Again, we will likely see debate in respect of the threshold requirement of exceptional circumstances.

Interestingly, a Telegraph poll revealed that 65% of respondents (at the time of writing) supported the Government's agenda to preserve protected lands, in response to the question 'should the Government build houses on the Green Belt'. However, the future of this policy approach remains uncertain with a potential election on the horizon. As reported by The Guardian, Keir Starmer has committed to making his party the "builders, not the blockers", even if it means permitting development on green belt land.

Planning Conditions

[140] "Local planning authorities should ensure that relevant planning conditions refer to clear and accurate plans and drawings which provide visual clarity about the design of the development, and are clear about the approved use of materials where appropriate. This will provide greater certainty for those implementing the

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planning permission on how to comply with the permission and a clearer basis for local planning authorities to identify breaches of planning control. Local planning authorities should also seek to ensure that the quality of approved development is not materially diminished between permission and completion, as a result of changes being made to the permitted scheme (for example through changes to approved details such as the materials used)".

Finally, the Government has placed further emphasis on plans, which is likely to avoid more mutant development much like the one recently seen in Greenwich. This amendment may lead to LPAs exerting greater control by requesting detailed plans and material information from the developer, which presumably could potentially result in the LPA refusing permission if these are not satisfactory. It also follows that since a higher level of information will be linked to the planning condition, any deviations from the approved plans and materials could provide clear evidence of a breach of planning control.

Plainly, in some instances, the design and materials of a development may change during the course of the construction period. When such changes occur, it may be necessary to consider more carefully whether an amendment or variation of the permission should be made since the risk of planning enforcement may be increased. I will be interested to see how LPAs approach this and the extent of information they will require at the application stage.

Looking Forward

The updated NPPF presents significant shifts in policy however, as with any policy shift, the effectiveness of these changes will ultimately hinge on their practical implementation and the political party seeing them through. Moving forward, it will be crucial for all stakeholders to stay informed and review these changes as they are rolled out in practice. I am sure there will be plenty of discussion to come.

Need advice?

Lester Aldridge's Planning & Environment team advises national and regional developers on all legal aspects of planning. Contact the team at online.enquiries@LA-law.com.

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