

CPRE South East eBulletin

Breaking News: The National Planning Policy Framework

Editor's Note

This short additional eBulletin is dedicated to the leaked draft of the National Planning Policy Framework (NPPF), which began circulating late last week. The leaked document is only a draft, but there are a several points of note for CPRE, including some areas where the draft is marked for revision before the NPPF is issued for consultation in mid-July.

These include several issues very close to CPRE's heart: especially loosening controls on development in the green belt and advertising in the countryside. The leaked draft gives a stronger message than ever that—under this government—planning should not get in the way of development.

The leaked draft heralds an unwelcome undermining of the negotiating powers of planning authorities to gain the most for communities from developments and to minimise the impacts of large developments. No one should be surprised if planning officers interpret this draft of the NPPF as all but abolishing S106 agreements. The leaked version also gives very strong discouragement against planning authorities imposing planning conditions and obligations. The call for stronger planning enforcement in an earlier draft has also been discarded.

But of greatest concern will be what I will call 'The Imperius Curse'. In Harry Potter this curse places the victim completely under the caster's control; only a person with exceptional strength of will is capable of resisting it. With the repeated exhortations in the leaked NPPF to approve development at almost any cost, it will take a council with exceptional strength of will to resist destructive planning applications. Those responsible for England's green and pleasant land are coming under the Imperius Curse of Eric Pickles, and this needs to be stopped before the bulldozers become unstoppable.

Andy Boddington, 4 July 2011

About CPRE SE eBulletin

The CPRE South East eBulletin is issued monthly, with occasional special editions when required. We cover all the planning and environmental news with a relevance to the remit of CPRE. Views expressed are those of the editor, not of any part of CPRE. Our audience is CPRE and its friends. Please feel free to circulate this eBulletin. If you are not on our circulation list and want to receive the eBulletin regularly, just let me know at cprenews@gmail.com.

Andy Boddington, Editor.

THE NATIONAL PLANNING POLICY FRAMEWORK

The Practitioners Advisory Group (PAG) submitted its draft National Planning Policy Framework (<http://bit.ly/nppfdraft>) to Greg Clark, Minister for Planning on 20 May (see our earlier eBulletin). On Friday last, *Planning* magazine and the *Times* reported on a leaked government draft of the NPPF dated from mid-June (Planning: <http://bit.ly/k5C382>; Times: <http://thetim.es/iCy0qz>; <http://thetim.es/IVoMyO>). The leaked NPPF is very similar to the PAG Draft in many areas but there are significant policy changes. These include full integration of the presumption of sustainable development announced by the government last month (<http://bit.ly/kPY9tW>; <http://bit.ly/mJg9Ra>). But some of the changes are so significant, that it justifies this short eBulletin to discuss those changes of most interest to CPRE.

Sustainable Development and Planning

Sustainability. A new section of the NPPF sets out a vision of sustainability. It says the three 'pillars' of the economy, society and environment are interconnected (paragraphs 16-19) and on first reading this is a fairly well balanced section.

Presumption of approval. Throughout the leaked draft, there is a presumption that development will be approved unless there are exceptional reasons for turning it down. The insertion of the phrase 'approve all individual proposals wherever possible', makes it clear that councillors will have to have the exceptional grounds before turning down any planning application (paragraph 20). The leaked draft says developments should be approved where they concur with the local or neighbourhood plan; or the plans are silent; or the plans are not up-to-date; or circumstances have recently changed; or there are significant economic benefits. Councillors can only reject development when 'the adverse impacts of allowing development would significantly and demonstrably outweigh the benefits' (paragraph 21). The PAG draft stated that applications in conflict with the local plan should be refused but this has been deleted from the leaked draft (paragraph 68).

Local plans. The leaked draft says: 'Development plans must aim to achieve the objective of sustainable development... including the presumption in favour of sustainable development. This means that plans should seek to restrict development only where the adverse impacts of allowing development would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole' (paragraph 24).

Neighbourhood plans. The leaked NPPF states more clearly than the PAG draft that the neighbourhood plan is subservient to the local plan. It exhorts that neighbourhood plans have the 'power to promote more development than is set out in the Local Plan' (paragraph 56, 57).

Financial considerations. A new paragraph makes it absolutely clear that money from developers, including through the New Homes Bonus and the Community Infrastructure Levy, is a material planning consideration (paragraph 70). The following paragraph urges councils to not take an 'overly cautious approach' to such financial considerations, in other words: do not fuss over the details, just approve and take the money.

Planning obligations and conditions. The leaked NPPF warns councils says planning obligations could be used to make unacceptable development acceptable (paragraph 73, 74). But planning obligations 'should only be used where it is not possible to address the matter through a planning condition'. But in a strengthened text, the leaked NPPF warns councils off planning conditions in many circumstances (paragraph 75). Don't hold out hope for S106 agreements for in the pursuit of the alchemy of making unacceptable developments acceptable. The leaked draft says S106 agreements cannot normally be a condition of granting planning permission (paragraph 76). A new paragraph also states: 'local planning authorities should avoid unnecessary conditions or obligations, particularly when this would undermine the viability of development proposals' (paragraph 77). Expect a long queue to the courts by housebuilders and retailers determined to get 'unnecessary conditions or obligations' defined in their favour.

Planning enforcement and call ins. The paragraph in the PAG draft urging action on enforcement has been deleted, as has a paragraph specifying the reasons for call in by the Secretary of State.

The Green Belt

Presumption against dropped. The welcome statement in the PAG draft that there is a ‘general presumption against inappropriate development in the Green Belt’ has been removed in the leaked draft. The draft still says: ‘Inappropriate development is [blank] by definition to the Green Belt and should not be approved except in very special circumstances’ (paragraph 124). Note: There are a few words that cannot be read in the leaked draft due to formatting issues. The [blank] here is perhaps the word ‘harmful’.

Conversions. The PAG draft had tried to block major conversion operations in the green belt but the leaked draft has removed this restriction (paragraph 147).

Renewable energy. A new paragraph opens up the green belt to wind turbines, providing they have ‘wider environmental benefits’ (paragraph 148). ‘When located in the Green Belt, elements of many renewable energy—projects will comprise inappropriate development. In such cases developers will need to demonstrate very special circumstances if projects are to proceed. Such very special circumstances may include the wider environmental benefits associated with increased production of energy from renewable sources.’

Community Right to Build. Editorial notes on the leaked draft say that a paragraph is to be added on CRB after paragraph 148. Will the Community Right to Build may override green belt protection?

Natural Environment

Presumption of approval. Although planning authorities are urged to ‘minimise adverse effects on the local and natural environment’, the addition of the presumption of sustainable development in the leaked draft weakens this. The presumption ‘means that plans should seek to restrict development only where the adverse impacts of allowing development would significantly and demonstrably outweigh the benefits.’

Other Planning Matters

Housing supply. In a new paragraph, the leaked draft says that if local authorities cannot demonstrate a five year supply of deliverable housing sites, then they can only refuse planning permission for housing on rare occasions, regardless of the local plan (paragraph 118).

Affordable housing. Commuted payments for affordable housing from developments of market housing can be used to improve existing housing rather than pay for new dwellings (paragraph 119).

Advertising. ‘Control over outdoor advertisements should be efficient, effective and simple in concept and operation. Only those advertisements which will clearly have an appreciable impact on a building or on their surroundings should be subject to the local planning authority’s detailed assessment. Advertisements should be subject to control only in the interests of amenity and public safety’ (paragraph 124). A note in the leaked draft says this paragraph in being reviewed.

Renewable energy. Applications for renewables should not be turned down just because they are not in designated areas (paragraph 154). The need to take account of ecological sensitivity has been reduced (paragraph 153).

Schools. A new paragraph directs local authorities to work with promoters of schools; to approve new schools; and to mitigate negative impacts through planning conditions and obligations (paragraph 123)—this despite the discouragement to use conditions and obligations elsewhere in the NPPF. A note in the leaked draft says this paragraph in being reviewed.