



The Presumption in Favour of Development and the Draft National Planning Policy Framework

OVERVIEW

In its Growth Review of March 2011 the Government committed to replacing the current suite of national planning policy, in the form of a 'shorter, more focused and inherently pro-growth' National Planning Policy Framework (NPPF). Additionally, it committed to the introduction of a 'powerful new presumption in favour of sustainable development, so that the default answer to development is 'yes''.

A draft of the NPPF, prepared by a Practitioners Advisory Group, was published in May 2011, and additional draft text dealing with the proposed presumption in favour of sustainable development was published in June 2011.

THE DRAFT PRESUMPTION

The Government's draft text for a 'presumption in favour of sustainable development' says that:

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, and approve all individual proposals wherever possible.

Local planning authorities should:

- *Prepare local plans on the basis that objectively assessed development needs should be met, and with sufficient flexibility to respond to rapid shifts in demand or other economic changes;*
- *Approve development proposals that accord with statutory plans without delay; and*
- *Grant permission where the plan is absent, silent, indeterminate or where relevant policies are out of date.*

All of these policies should apply unless the adverse impacts of allowing development would significantly and demonstrably outweigh the benefits, when assessed against the policy objectives in the National Planning Policy Framework taken as a whole.

This text, or an amended version, will appear in the forthcoming National Planning Policy Framework (NPPF), which is intended to replace the current suite of Planning Policy Statements and Planning Policy Guidance in England.

WHAT DOES THE PRESUMPTION MEAN?

Existing legislation says that decisions on planning applications must be made in accordance with the development plan, unless there are good planning reasons (or 'material considerations') which justify doing otherwise. This is known as the 'planned system'.

No change to this aspect of legislation is proposed, but the NPPF will be an important material consideration in decision-making. The presumption in favour of sustainable development, which will appear in the NPPF, would mean that a development may be acceptable if it can be demonstrated that there is no plan, that the plan doesn't deal with the type of development proposed (or the location in which the development is proposed), that it is overly vague about whether the proposed development is acceptable, or that the development plan policies are out of date.

However, the proposed development will still need to be consistent with the overall objectives of the NPPF (and, presumably, the criteria-based development management it contains).

IS THIS REALLY ANY DIFFERENT TO THE CURRENT SYSTEM?

It has long been accepted that decision-makers should use national policy to make decisions where plans at local level are absent, silent or indeterminate, and that they should defer to national policy where their local plans are out of date. That is exactly what they will be required to do in the future. On that level, nothing will change.

However, the draft presumption does say that an application should only be refused if the adverse impacts of the development would ‘significantly and demonstrably outweigh the benefits’. This suggests two things. First, that a proposed development might be acceptable even where there is some adverse impact; it is the significance of the impact that will be important. Second, that applicants and local authorities will need to invest substantial time and effort in showing whether impacts are significant or not.

Arguments about whether permission should be granted may be won and lost on these criteria, and it is likely to be a key area for debate. Ironically, a measure designed to be more ‘development friendly’ may in fact slow the planning process, as developers and local planning authorities lock horns over the significance of impacts, the balancing of those impacts and whether they have been adequately addressed.

SURELY THE GOVERNMENT COULD SIMPLY PREPARE A ‘PRO GROWTH’ NPPF?

Of course, it is entirely open to the Government to prepare an NPPF which is pro-growth and which would present relatively few barriers to new development. As a result, local plans – which will need to be broadly consistent with the NPPF – would need to be far more pro-growth, leading to a more permissive approach to applications.

But the draft NPPF prepared by the Practitioners Advisory Group is rooted in the principles of sustainable development, and retains a number of existing policy tests. For example, it says that:

- Green Belt boundaries will continue to be established in Local Plans, and once established they should only be altered in exceptional circumstances;
- The historic environment will continue to be afforded a high level of protection;
- Retail development outside town centres will require an assessment of sequentially preferable sites and impact; and
- The sequential and exception tests will remain in assessing flood risk.

That said, there are some concessions to a more pro-growth agenda. For instance, the draft NPPF says that:

- Local planning authorities should attach significant weight to the benefits of economic and housing growth;
- Planning applications should not be refused on transport grounds unless the impacts are severe; and
- Applicants for retail development need only demonstrate that it is not ‘practical’ to locate stores in town centres before they move to look at edge and out of centre locations, a more relaxed approach than at present.

WHAT HAPPENS NOW?

Formal consultation on a draft NPPF, including the draft presumption in favour of sustainable development, will take place later this year.

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