

REVISED NATIONAL PLANNING POLICY FRAMEWORK (NPPF)

Summary: An update on the new National Planning Policy Framework (NPPF), focussing on the extent to which the Board's NPPF consultation comments have been addressed.

Recommendation: To note the extent to which the Board's NPPF consultation comments have been addressed.

Officer Ref: John Mills, Planning and Landscape Officer (01451 862004)

Background

1. The National Planning Policy Framework (NPPF) sets out the Government's planning policies for England and how they are expected to be applied. It was first published in 2012. Between March and May 2018, the Government undertook a consultation on a draft, revised NPPF. Following this consultation, a new version of the NPPF was published in July 2018¹.
2. As stated in the consultation documents accompanying the draft NPPF in May 2018, the review of the NPPF primarily related to the Government's ambition for '*radical, lasting reform*' of housing and planning policy '*that will allow more homes to be built*' and '*put England on track to deliver 300,000 new homes a year*². A key component of this reform was to '*bring forward more land in the right places*'.
3. The Conservation Board submitted a NPPF consultation response on 10th May 2018. The Board also coordinated a nearly identical consultation response on behalf of the National Association of Areas of Outstanding Natural Beauty.

The extent to which the Board's NPPF consultation comments have been addressed

4. The recommendations that the Board made in its NPPF consultation response are shown in **Appendix A**, which also outlines the extent to which these recommendations have been addressed in the new NPPF.
5. Appendix A shows that we made nine main recommendations, including a 'top priority' recommendation, a 'second priority' recommendation and seven 'other' recommendations. Of these nine recommendations, three (including our top priority) were partially incorporated into the new NPPF and six were not incorporated.

¹

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/734407/National_Planning_Policy_Framework_print_version.pdf

² It is worth noting the aspiration of delivering 300,000 new home per year represents an increase of approximately 40% on the number of new homes built in 2016.

6. Although the extent to which our recommendations have been incorporated into the NPPF is limited, the overall outcome (in relation to AONBs, specifically) is a positive one. For example, the new NPPF:
- Re-instates the statement that protected landscapes have the '*highest status of protection*', which was in the 2012 NPPF but was omitted from the draft NPPF (Paragraph 172). This was our 'top priority' recommendation.
 - Refers to '*conserving and enhancing³ landscape and scenic beauty*' (Paragraph 172), whereas the 2012 NPPF and the draft NPPF just referred to '*conserving landscape and scenic beauty*'.
 - Has retained the new sentence that was introduced in the draft NPPF, which specifies that '*the scale extent of development within the designated areas should be limited*' (Paragraph 172).
 - Provides a definition of major development, in the context of protected landscapes, which reflects well established case-law (Paragraph 172, footnote 55).
7. In addition, it is worth noting that, for some of the recommendations that have not been incorporated into the NPPF, there is existing case law and / or best practice that supports the application and advocacy of these recommendations in the Board's planning-related work, as outlined in the comments column in Appendix A.

Supporting Paper(s):

Appendix 'A' - The extent to which the Board's NPPF consultation comments have been addressed

³ Underlining added for emphasis.

APPENDIX 'A' - The extent to which the Board's NPPF consultation comments have been addressed

Consultation response recommendation	Recommendation addressed in the new NPPF? (Yes / No / Partially)	Comments
TOP PRIORITY		
<p>Reinstate the principle that protected landscapes have the highest status of protection (paragraph 170 of the draft NPPF⁴). This should be supported by guidance which explicitly states that AONBs have equal planning status to National Parks and at least equal planning status to Green Belt.</p>	<p>Yes (partially), in paragraph 172 (which equates to paragraph 115 of the 2012 NPPF).</p>	<p>We are delighted that our top priority (i.e. reinstating the principle that protected landscapes have the 'highest status of protection') has been incorporated into the new NPPF, albeit partially.</p> <p>The new NPPF adds that this 'highest status of protection' is in relation to the issues of conserving and enhancing landscape and scenic beauty in National Parks, the Broads and AONBs. This closely reflects the wording in the 2012 NPPF, which was removed from the 2018 consultation draft.</p> <p>In our consultation response, we argued that this contextual text should not be re-instated as the 'highest status of protection' should apply to protected landscapes in the context of all planning policy (including Green Belt), rather than just in the context of conserving and enhancing landscape and scenic beauty in protected landscapes.</p> <p>There has been no new supporting guidance which explicitly states that AONBs have equal planning status to National Parks and at least equal status to Green Belt.</p>
SECOND PRIORITY		
<p>Second priority: Require development in AONBs to be based on specific evidence of a convincing local need arising from within the designated area (paragraph 170 of the draft NPPF). This should be supported by guidance which</p>	<p>No</p>	<p>Although this was the second most important priority in our consultation response, it would have been highly unlikely for this recommendation to be incorporated into the NPPF, so it is not surprising that it has not been.</p> <p>This recommendation would have been an addition to the new sentence in the NPPF which states that 'the scale and extent of development in these designated areas should be limited' (this sentence first appeared in the draft NPPF and has been retained in the new NPPF). This new sentence is an</p>

⁴ Paragraph 170 of the draft NPPF equates to paragraph 172 of the new NPPF.

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<p>explicitly states that the constraints that apply to development in National Parks should also apply to development in AONBs, given that they have the same planning status.</p>		<p>excellent addition to the NPPF and should be a significant help in preventing inappropriate development in the NPPF. However, it will probably take a few years of new case law to establish exactly what it means in practice.</p> <p>Although our recommendation was not incorporated into the NPPF, it is worth noting the valuable precedent set in the recent examination of the West Oxfordshire Local Plan. In this examination, the lack of ‘evidence of need’ arising from within the Cotswolds AONB was a significant factor in the planning inspector rejecting several proposed housing allocations in the AONB. As such, we can now use this case law to advocate the approach that we recommended in our NPPF consultation response.</p> <p>There has been no new supporting guidance which explicitly states that the constraints that apply to development in National Parks should also apply to development in AONBs.</p>
<p>OTHER RECOMMENDATIONS</p>		
<p>Give great weight to ‘conserving and enhancing natural beauty’, rather than ‘conserving landscape and scenic beauty’ (paragraph 170 of the draft NPPF).</p>	<p>Yes (partially), in paragraph 172 of the new NPPF.</p>	<p>The new NPPF has added the word ‘enhancing’, which is a very positive step forwards.</p> <p>However, the new NPPF still refers to ‘landscape and scenic beauty’ (as per the 2012 NPPF), rather than ‘natural beauty’. This is disappointing, as we do not believe that ‘landscape and scenic beauty’ adequately addresses all aspects of ‘natural beauty’.</p> <p>We also believe that ‘natural beauty’ would be more appropriate wording than ‘landscape and scenic beauty’ because conserving and enhancing natural beauty is the legal purpose of AONB designation.</p>
<p>Set criteria-based policies for development in – and within the setting of – AONBs and have regard to AONB Management Plans (paragraph 170 of the draft NPPF).</p>	<p>No</p>	<p>It would have been helpful for this recommendation to have been incorporated into the new NPPF.</p> <p>However, this recommendation is already fairly common practice amongst local planning authorities.</p> <p>For example, most adopted Local Plans refer to the AONB Management Plans as being a material consideration (with some Local Plans addressing this</p>

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		at a policy level and some addressing it in the supporting text). Most adopted Local Plans also have an AONB policy (or, at least, a policy that addresses the AONB designation). These policies are normally closely aligned to the requirements of the NPPF.
Apply the major development 'tests' in para 170 to plan-making (i.e. site allocations) as well as decision-taking (paragraph 170 of the draft NPPF).	No	<p>The major development 'tests' in the new NPPF (paragraph 170) still relate specifically to planning permission (i.e. 'decision-taking', rather than 'plan-making').</p> <p>It would have been helpful for this recommendation to have been incorporated into the new NPPF.</p> <p>However, there is existing legal opinion which clarifies that the major development tests should be applied at the plan-making stage (e.g. the site allocations stage of development of a Local Plan) as well as at the planning permission stage⁵.</p> <p>Unfortunately, there are also cases such as the newly adopted Cotswold District Local Plan, which states that the NPPF major development tests do not apply to development sites allocated by the Local Plan because the need for those developments and scope for them to be accommodated outside the AONB was assessed during plan preparation⁶.</p>
Simplify paragraph 11 ⁷ , in relation to the designations listed in Footnote 7 ⁸ , providing a more balanced approach to achieving sustainable development.	No	<p>It would have been helpful for this recommendation to have been incorporated into the new NPPF.</p> <p>However, whilst the Board (and the NAAONB) considered this to be an important issue, other environmental sector organisations, such as Wildlife and Countryside Link and the RSPB, didn't consider it to be so significant and so did not raise it in their consultation responses.</p> <p>As such, it would have been highly unlikely for this recommendation to have been incorporated.</p>
Reinstate reference to Local Wildlife Sites /	No	The draft NPPF removed all references to Local Wildlife Sites that had previously been in the 2012

⁵ <https://www.southdowns.gov.uk/wp-content/uploads/2017/02/SDNPA-Major-Development-Advice-2017.pdf>

⁶ The Board unsuccessfully objected to the inclusion of this statement in the Cotswold District Local Plan.

⁷ Paragraph 11 of the draft NPPF equates to paragraph 11 of the new NPPF.

⁸ Footnote 6 of the draft NPPF equates to paragraph 7 of the new NPPF.

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locally designated sites in the NPPF, including in Footnote 7.		<p>NPPF.</p> <p>Although the recommendation that we made in our NPPF consultation response has not been incorporated into the new NPPF, locally designated sites are now at least mentioned in paragraph 171 of the new NPPF.</p>
Extend the requirement, in paragraph 72, that such developments <i>'should not compromise the protection given to areas or assets of particular importance in this Framework'</i> to other relevant paragraphs of the NPPF, including paragraphs 80, 85, 112 and 117 ⁹ .	No	<p>Although this recommendation has not been incorporated into the new NPPF, it is worth noting that the new NPPF actually goes further in the protection afforded to AONBs, in relation to entry-level exception states.</p> <p>It now states (in paragraph 71, footnote 34) that entry-level exception sites should not be permitted in AONBs, whereas the draft NPPF (Paragraph 70 and footnotes 27 and 7) indicated that such sites should not compromise the level of protection afforded to AONBs.</p>
Retain the new definition of major development in Annex 2 of the draft NPPF, with the proviso that smaller scale developments in protected landscapes may be considered to be major development if they are deemed to have the potential to have a serious adverse impact by reason of their scale, character or nature.	Yes (partially)	<p>The 2012 NPPF did not include a definition of major development. The definition of major development in Annex 2 of the draft NPPF was adapted from the definition of major development in the Town and Country Planning (Development Management Procedure) Order 2015. Under this definition, housing developments of 10 or more homes and non-residential development of 1,000 square metres or more are classed as major development.</p> <p>However, the new NPPF has inserted a different definition for major development in the context of protected landscapes (Policy 172, footnote 55):</p> <ul style="list-style-type: none"> • <i>Whether a proposal is 'major development' is a matter for the decision maker, taking into account its nature, scale and setting, and whether it could have a significant adverse impact on the purposes for which the area has been designated or defined.</i> <p>This new definition reflects the case law that has</p>

⁹ Paragraphs 80, 85, 112 and 117 of the draft NPPF equate to paragraphs 78, 84, 112 and 117 of the new NPPF.

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		<p>evolved – and become well established - since the NPPF was first published in 2012. It is useful to have this case law definition reflected in national planning policy. It also reflects the additional sentence that we recommended for the definition of major development in our consultation response.</p> <p>Although there would have been some benefits in automatically considering any development of 10 or more dwellings as major development, the new definition has the benefit of providing the scope for smaller developments to be classed as major development, where appropriate (e.g. housing proposals that would extend the urban fringe of Cheltenham / Gloucester into the AONB at the foot of the Cotswold escarpment).</p>