DLP BRIEFING NOTE 92

Prepared by
DLP Planning Ltd

April 2012

www.dlpconsultants.co.uk
Disclaimer

DLP Consulting Group Ltd, and its constituent companies disclaims any responsibility to the client and others in respect of matters outside the scope of this Report. This Report has been prepared with reasonable skill, care and diligence, is the property of DLP Consulting Group, and is confidential to the client. DLP Consulting Group Ltd accepts no responsibility of whatsoever nature to third parties, to whom this report has been provided.
The National Planning Policy Framework (NPPF), published on 27th March 2012, sets out the Government’s planning policies for England (refer to DLP’s Client Briefing Note No. 91). This Client Briefing Note sets out the implementation of the NPPF (contained within Annex 1 of the Framework), including the transitional arrangements. It also looks at the Technical Guidance that has been published alongside the NPPF.

IMPLEMENTATION OF THE NPPF AND TRANSITIONAL ARRANGEMENTS

The Framework, on numerous occasions, reiterates that planning law requires applications for planning permission to be determined in accordance with the development plan (the Local Plan and any neighbourhood plans that have been made), unless material considerations indicate otherwise. It confirms that the NPPF must be taken into account in the preparation of local and neighbourhood plans, and is a material consideration in planning decision, from the date of its publication.

However, the policies in the Local Plan should not be considered out-of-date simply because they were adopted prior to the publication of the NPPF. For 12 months (i.e. until 26th March 2013), decision-takers can continue to give full weight to relevant policies adopted since 2004 even if there is a limited degree of conflict with the Framework.

In other cases and following this initial 12 month period, the weight given to relevant policies in existing plans will depend on their degree of consistency with the NPPF, i.e. the closer the policies in the plan to the policies in the Framework, the greater the weight that can be given.

The NPPF also states that decision makers can give weight to relevant policies in emerging plans. Matters that need to be taken into consideration for emerging plans include:

- “the stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);
- the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and
- the degree of consistency of the relevant policies in the emerging plan to the policies in this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given)”

In the meantime, LPAs are urged to set out their strategic policies for their areas and ensure up-to-date Local Plans are in place as quickly as possible.

Annex 1 also states that regional strategy policies can be reflected in Local Plans where it would be appropriate and assist the process of preparing or amending Local Plans. LPAs can also continue to draw on evidence that informed the preparation of regional strategies to support Local Plan policies, supplemented by up-to-date, robust local evidence as required.

TECHNICAL GUIDANCE

This document provides additional guidance to ensure the effective implementation of the Government’s planning policy on development in areas at risk of flooding and in relation to mineral extraction. Interestingly, this is an “interim measure pending a wider review of guidance to support planning policy”.

Flood Risk

Chapter 10 of the NPPF sets out guidance on climate change, flood risk and coastal change, such as the need for local authorities to implement Strategic Flood Risk Assessments to ensure that development is built in the right locations and that the risk of flooding is not increased by development. The Technical Guidance retains key elements of
PPS25 in setting out the definitions of the different flood zones, the flood risk vulnerability classification of different land uses, and when and how to apply the Sequential and Exception tests.

Paragraphs 6 to 10 of the Technical Guidance document demonstrates the need for local authorities to carry out Strategic Flood Risk Assessment and for developers to carry out a site-specific flood risk assessment for development in a flood risk area.

Paragraphs 11 to 15 of the Technical Guidance explains the predicted effect of climate change on flood risk. For example, Table 4 sets out net sea level rises up until 2115, relative to 1990 levels; and Table 5 shows recommended national precautionary sensitivity ranges for e.g. peak rainfall intensities and peak river flows.

Residual flood risk, which are those risks remaining once the Sequential Test has been applied and mitigating actions put in place, is the subject of paragraphs 16 to 19 of the Technical Guidance. It explains the difference between flood-resilient buildings and flood-resistant construction.

**Minerals Policy**

Chapter 13 of the NPPF sets out the government’s policy on minerals planning. This is supplemented by paragraphs 20 to 54 of the Technical Guidance which stresses the need for a programme of work to be agreed to help assess and mitigate impacts arising from the extraction of minerals.

Paragraphs 23 to 27 of the Technical Guidance focus on the issue of dust emissions, including how to carry out a dust assessment study and the likely health effects caused by dust.

Paragraphs 28 to 31 demonstrate the main considerations for completing a noise emissions assessment and the relevant noise standards associated with the extraction of minerals.

Tip-and quarry-slope stability is the subject of paragraph 32. This should be calculated based on a number of criteria including depth of working, nature of materials and length of time the slope is needed to be in place to help ensure safety.

The Technical Guidance states that “planning authorities should provide for restoration and aftercare at the earliest opportunity to be carried out to high environmental standards” (paragraph 33). It demonstrates the need for reclamation conditions/schemes and aftercare schemes and sets out what should be included in these to ensure that land is returned to its previous state on completion of mineral working.

Paragraphs 49 to 51 set out the financial responsibility that lies with the operator/landowner for the restoration and aftercare of minerals sites.

The Technical Guidance also contains definitions of specific categories of minerals that are referred to in the Framework, including aggregate minerals, energy minerals and industrial minerals. It also includes a Glossary of technical noise terms such as ambient noise, residual noise and decibel.
If you require more information or would like to discuss the issues mentioned in further detail please contact:

**Bedford (Design)**
3rd Floor  
8 Goldington Road  
Bedford  
MK40 3LG  
T 01234 261 266  
F 01234 347 413

**Bedford (Planning)**
4 Abbey Court  
Fraser Road  
Priory Business Park  
Bedford  
MK44 3WH  
T 01234 832 740  
F 01234 831 266

**Bristol**
2A High Street  
Thornbury  
Bristol  
BS35 2AQ  
T 01454 410 380  
F 01454 410 389

**London**
1st Floor Holborn Gate  
330 High Holborn  
London  
WC1V 7QT  
T 020 7849 6979  
F 020 7203 6701

**Cardiff**
Sophia House  
28 Cathedral Road  
Cardiff  
CF11 9LJ  
T 029 2064 6810

**Sheffield**
11 Paradise Square  
Sheffield  
S1 2DE  
T 0114 228 9190  
F 0114 272 1947