

**Examination of newly
released draft (Beta) National
Planning Practice Guidance**

DLP BRIEFING NOTE 131

Prepared by
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Planning practice guidance is an important material consideration for decision makers and plan preparation, and has a particular status through the legal framework. Existing planning practice has been found to be unsatisfactory at external review and a draft (Beta) NPPG web based resource has been set up with a view to replacing existing guidance.

The Beta Web based resource is in Q&A and key word search format and is not directly printable. The new draft guidance is a material consideration but to be given limited weight during Beta. Post adoption it will be viewed in conjunction with and in support of the NPPF and must be given appropriate weight.

During Beta and consultation period (open now and closing October 9th, 2013) the Department for Communities and Local Government is open to representations on the draft guidance. DLP Planning Consultants can make representations on behalf of clients during this consultation period or provide detailed information specific to clients' interests.

National Planning Practice Guidance (NPPG) is the new guidance in support of the NPPF.

Planning practice guidance issued by the Government has a particular status through the legal framework:

- In respect of Local Plan preparation, Sections 19(2) and 34 of the Planning and Compulsory Purchase Act 2004 require that in preparing their Plan, the local planning authority must have regard to national policies and advice contained in guidance issued by the Secretary of State.
- In respect of determining planning applications, section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications should be decided in accordance with the development plan for the area, unless material considerations indicate otherwise. Planning practice guidance where relevant may be a material consideration.
- One of the basic conditions that must be met by a draft neighbourhood plan, Neighbourhood Development Order or Community Right to Build Order is that, having regard to national policies and advice contained in guidance issued by the Secretary of State, it would be appropriate to make the plan or Order. This is set out in relation to Neighbourhood Development Orders in paragraph 8(2)(a) of Schedule 4B to the Town and Country Planning Act 1990 (as applied to community right to build orders by paragraph 7 and neighbourhood development plans by section 38A(3) of the Planning and Compulsory Purchase Act 2004).

On 16 October 2012 it was announced that Lord Taylor of Goss Moor would lead an external review of all government planning practice guidance.

The review group's report, published on 21 December 2012, found the existing guidance was unwieldy in its current form and recommended that it be shorter but retain key elements, be more accessible, and more useful to everyone using the planning system. These recommendations were strongly supported by a public consultation carried out by the Government between 21 December 2012 and 15 February 2013.

Subsequently, following the external review, the national planning practice guidance has been completely refreshed and updated to support the National Planning Policy Framework, make it more accessible and the planning system more comprehensible.

This web-based resource for planning practice guidance is being developed following the recommendations of the External Review and includes the draft NPPG in a Q&A and key word search format set out in terms of development types and planning system aspects which directly correspond with the relevant chapter of the NPPF. The information is only accessible through the web based system which allows it be updated and kept up-to-date easily. Once final it will be the first time national planning practice guidance has been available entirely online in an up-to-date, usable and accessible way.

The website is currently in Beta, and the planning practice guidance is in draft form and has not yet been issued by the Secretary of State. The intention is to launch the site fully with the issued and approved planning practice guidance later this year. At that time, all current planning practice guidance will be replaced by the material on this web-based resource but until this time existing planning practice guidance will remain in place.

In preparing Local Plans and taking decisions during Beta, local planning authorities need to consider and have regard to planning practice guidance issued by the Government. This is also the case for those communities and authorities undertaking neighbourhood planning. In carrying out any of these activities, communities and authorities can only be expected to have considered the guidance that is in effect when plans are prepared or when decisions are being taken but those plans that have reached a point where final plans have been submitted for examination will not have had an opportunity to make any revisions to accommodate any new Government planning practice guidance. The Government has therefore set out the following positions with regard to decision making and Local and neighbourhood Plans.

The Government considers that where the planning practice guidance published in draft on this web-based resource during Beta is a material consideration, it is likely to have limited weight. However, it is for the decision maker to determine the weight of this guidance in any individual decisions.

The web-based resource will go fully live later this year, when the new planning practice guidance will be finalised. At this point, it is expected that the Secretary of State will specify that the new guidance applies only to Local or neighbourhood Plans which have not yet been submitted for examination. Any Local or neighbourhood Plans submitted before the new guidance is issued may rely on the previous guidance with limited weight being placed upon the new guidance at the discretion of the decision maker. Any new plan presented for examination, or decision to be made, post Beta, when the guidance has been finalised, will be viewed under the guidance of the new NPPG. At this stage the NPPG will be a material consideration to be considered and weighted in conjunction with the NPPF.

This web-based resource has refreshed, streamlined and brought up-to-date the existing planning practice guidance to make sure that it supports national planning policy in an easily accessible way. Draft planning practice guidance is now viewable together with and alongside the National Planning Policy Framework.

The volume of guidance has been reduced by over 90 per cent, shortening the overall length by removing unnecessary or outdated detail, and consolidating and streamlining guidance material. Planning practice guidance which was previously published in many different and separate documents has now been brought together and is therefore much more comprehensible and accessible.

The draft planning practice guidance on the Beta site has been updated to reflect and support the National Planning Policy Framework, the presumption in favour of sustainable development, the introduction of neighbourhood planning and recent changes in legislation such as the Growth and Infrastructure Act 2013.

Within the new resource efforts have been made to ensure that the draft planning practice guidance is proportionate to each topic.

In line with Lord Taylor's recommendations, the draft new planning practice guidance also includes:

- local green space designation
- environmental quality – noise, air, land, water and water supply, and light pollution
- duty to cooperate
- viability
- neighbourhood planning

When the web-based resource is fully launched and the final version of the national planning practice guidance is issued by the Secretary of State later this year, this site will have been amended following the comments received during Beta

There is also an intention to bring into this site the planning practice guidance for renewable and low carbon energy and onshore oil and gas which we published earlier this year.

The consultation period is now open to representations, closing 9 October 2013.

If you would like to hear more about the specific information on different development types or aspects of the planning system contained within the draft NPPG document, discuss what the potential implications are for your interests or would like DLP Planning Consultants to make representation on the draft guidance on your behalf then please do not hesitate to contact us.

If you require more information or would like to discuss the issues mentioned in further detail please contact:

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