

# PLANNING BRIEFING NOTE

March 2013

## THE NPPF AND THE PRESUMPTION IN FAVOUR OF SUSTAINABLE DEVELOPMENT: ONE YEAR ON

### OVERVIEW

It's now a year since the publication of the National Planning Policy Framework (NPPF), and with it comes the end of the one year grace period for local planning authorities to get their Local Plans up to date before the 'presumption in favour of sustainable development' is given full weights. This briefing looks at the implications of the end of this grace period.

### INTRODUCTION

The coalition Government came to power with a commitment to introduce a 'presumption in favour of sustainable development' in the planning system in England. This presumption is set out in the Government's National Planning Policy Framework (NPPF).

This means that, in the first instance, local authorities' decisions on planning applications should be based on whether a proposed development is consistent with the Local Plan for the area, provided that plan is up to date.

But where the Local Plan is out of date, local authorities are expected to attach far less importance to the policies in the Local Plan, and instead make decisions based on policies in the NPPF, which makes clear that development which is sustainable should be 'approved without delay'.

Since publication of the NPPF on 27 March 2012, local authorities have had a one year grace period to get their Local Plans up to date.

The Government's hope is that the end of the one year grace period will make it harder for local authorities to refuse planning applications, helping to deliver its growth agenda and, in particular, to stimulate the delivery of new homes.

### WILL THE END OF THE GRACE PERIOD REALLY HAVE A MAJOR IMPACT?

The Government's clear message is that local authorities should get an up to date Local Plan in place, or face the prospect of planning permissions being granted in undesirable locations.

Certainly it seems likely that with the NPPF given full weight and the pro-development message continuing to be hammered home by the Government, developers will be more willing to consider making applications on sites which might previously have been considered too challenging.

This is particularly true of housing, where the NPPF requires that local councils have a supply of deliverable sites to meet housing need for the next five years. If local councils haven't identified that supply they are vulnerable to speculative applications which they may find difficult to refuse and, if they are refused, developers will be more willing to appeal.

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## HASN'T THE REQUIREMENT TO DEMONSTRATE A FIVE YEAR LAND SUPPLY BEEN IN PLACE FOR SOME TIME? WHAT'S CHANGED?

It's true that the requirement to demonstrate a five year land supply was in place even before the NPPF was published a year ago, and decision-makers have still been attaching significant weight to it even during the one year grace period, as recent decisions have demonstrated.

In Norfolk, for example, an application for over 1,000 homes on arable land was granted earlier this year, despite concerns about the impact of the development on the character of the countryside. In recommending approval, officers advised that the planning committee that the lack of a five year housing land supply in the Norwich area should carry significant weight.

Elsewhere, in Cheshire, the Secretary of State has recently said that he is 'minded to allow' an appeal against refusal of an application for nearly 300 homes, noting that although the proposed development would be contrary to the development plan, 'the lack of five year land supply means that the relevant policies for the supply of housing should not be considered up to date and the presumption in favour of sustainable development is engaged'.

What's changed, we think, is that the end of the grace period strengthens the Secretary of State's hand. There is no longer a justification for local authorities not to have a plan in place – or at least some indication of where they will provide their five year land supply – allowing the Secretary of State to 'engage' the presumption in favour of development more frequently and more forcibly.

## SO IS THIS A 'FREE FOR ALL' FOR HOUSING DEVELOPERS?

The simple answer is 'no', and that's because the presumption in favour of sustainable development is not simply about saying 'yes' to everything. The presumption, as set out in the NPPF, is also about – among other things – good design, sustainable transport and making best use of sites.

For that reason, a number of appeals have been dismissed over the last year. In rural Leicestershire, for example, a scheme for 50 dwellings was dismissed after an Inspector concluded that the adverse impact on the setting of a village outweighed the need to improve a housing land supply pipeline estimated at 4.6 years at best.

And in North Yorkshire, an Inspector concluded that an appeal against refusal of an application for 116 homes should be dismissed on the grounds that it would place unreasonable constraints on the operation of a neighbouring industrial site, despite the lack of a five year housing land supply in the area.

## WHAT THIS MEANS FOR DEVELOPERS

The end of the NPPF's one year grace period should rightly give developers encouragement to submit applications for new housing schemes, particularly in areas which lack an up to date Local Plan and five year land supply. Yet it is not an open invitation; some sites will simply not be appropriate for housing and a permission may not be forthcoming. Early advice on the prospects of success is, therefore, critical.

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