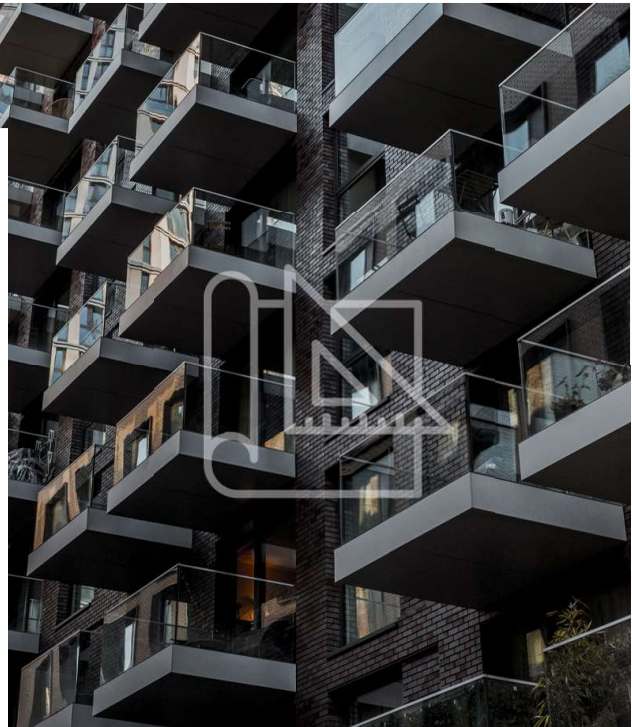




NPPF Briefing for Developers

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Housing – Decision-making and calculating need



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- Paragraph 11 – the key for decision-making
 - **The non-changes:** exceptions to requirement that strategic policies must provide for obj assessed needs
 - Out of character density dropped
 - Clear evidence of past over-delivery dropped



- Paragraph 14 – where non-compliance with neighbourhood plan may overcome tilted balance
- Period of neighbourhood plan increases to five years
- Requirement of minimum three years supply and at least 45% HDT removed
- Potentially much more power to neighbourhood plans in low delivering authorities?



- Newly added to overall aim – para 60 – “meet as much...as possible”
- Para 63 – size, type tenure to be assessed – “retirement housing, housing with care and care homes” added as specific categories



- Para 61 – standard method “an advisory starting point”
– A major watering down??
- Para 61 – goes on: “may be *exceptional circumstances*, including relating to particular demographic characteristics of an area, which justify and alternative approach...”
- Alternative approach must reflect demographic terms and market signals
Also, refs para 67 which adds section allowing for *higher* numbers



- Para 62 – new in NPPF but was previously in NPPG (Paragraph: 004 Reference ID: 2a-004-20201216 and other paras)
- Refers to uplift in top 20 cities; footnote adds requirement to make effective use of land, to enable prioritise brownfield land – a rewording (watering down?) of consultation draft.
- Promotion of NPPG policy to full NPPF status



Implications

- A weaker overall aim
- A political free -or-all on numbers?
- What are exceptional circumstances?
- Greater definition of types of housing for older people
- More clout behind use of brownfield land



Plan-Making– Five year supply and other key changes



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We will look at...

1. 5yr/4yr Supply
2. Other Matters: Soundness Test, Transitional Arrangements...



4 Years or 5? Interaction with plan-making

Before- continual need to demonstrate deliverable 5yhs

Now- with up to date local plan- *adopted plan less than 5yrs old + 5yrs of specific deliverable sites by conclusion of EiP* = no need to meet

Plans in progress-

(NPPF 226- "for decision-making purposes only")

Reg 18/Reg 19 stage/submitted for EiP- with policies map and proposed allocations- reduced requirement, 4yhs only (for 2 years)...with buffer if applicable

Against a 4-year or 5-year hs requirement...?



Implications for LPAs

Better protection for LPAs against unplanned/speculative development?

Incentive to keep local plans up to date?

Increase delivery of housing? (but fewer tilted balances?)

NB "priority" role of preparing/maintaining local plans: NPPF 1

[Savills- 92 LPAs with Plans younger than 5yrs; 70% without

60 LPAs at Reg 18/19 stage- incentive at least to get to Reg 18 stage?

120/330 LPAs without 5ys, but c40 can demonstrate at least 4ys]



Soundness test – Change from consultation draft

- Consultation draft 2022 had proposed changes to soundness test to speed up examinations and, as widely described, ‘water down’ the requirements:

Examining plans

35. Local plans and spatial development strategies are examined to assess whether they have been prepared in accordance with legal and procedural requirements, and whether they are sound. Plans are ‘sound’ if they are:
- a) **Positively prepared** – providing a strategy which, ~~as a minimum, seeks to meet the area’s objectively assessed needs so far as possible, taking into account the policies in this Framework²²; and is informed by agreements with other authorities, so that unmet need from neighbouring areas is accommodated where it is practical to do so and is consistent with achieving sustainable development;~~
 - b) **Justified** – ~~an appropriate strategy, taking into account the reasonable alternatives, and based on proportionate evidence;~~
 - e)b) **Effective** – deliverable over the plan period, and based on effective joint working on cross-boundary strategic matters that have been dealt with rather than deferred, as evidenced by the statement of common ground; and
 - d)c) **Consistent with national policy** – enabling the delivery of sustainable development in accordance with the policies in this Framework and other statements of national planning policy, where relevant.

- These proposals have not been taken forward. Soundness test remains unchanged.



Neighbourhood plans

- Change to paragraph 14:

14. In situations where the presumption (at paragraph 11d) applies to applications involving the provision of housing, the adverse impact of allowing development that conflicts with the neighbourhood plan is likely to significantly and demonstrably outweigh the benefits, provided the following apply:
- a) the neighbourhood plan became part of the development plan **five** years or less before the date on which the decision is made; and
 - b) the neighbourhood plan contains policies and allocations to meet its identified housing requirement (see paragraphs 67-68), where that requirement has been identified within **five years or less** of the date on which the decision is made.

- N.b. the deletion of paragraphs (c) and (d), which had referred to HLS and HDT.
- Gives greater scope for Neighbourhood plans to protect against tilted balance development.



Transitional arrangements

- Which NPPF applies at upcoming EiPs? (50 Plans paused since draft NPPF)

“230. The policies in this Framework (published on 19 December 2023) will apply for the purpose of examining plans, where those plans reach regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations 2012 (presubmission) stage after 19 March 2024. Plans that reach pre-submission consultation on or before this date will be examined under the relevant previous version of the Framework in accordance with the above arrangements. For Spatial Development Strategies, this Framework applies to strategies that have reached consultation under section 335(2) of the Greater London Authority Act 1999 after 19 March 2024. Strategies that reach this stage on or before this date will be examined under the relevant previous version of the Framework in accordance with the above arrangements. Where plans or strategies are withdrawn or otherwise do not proceed to become part of the development plan, the policies contained in this Framework will apply to any subsequent plan or strategy produced for the area concerned.”

- N.b. Proposed LURA changes to local plans. In July govt announced the deadline for submitting plans under current system is 30 June 2025 with adoption by 31 December 2026. Questions remain about 'new' plans, in terms of regulations, policy & guidance, role of NDMPs.



Other matters relevant to local plans

- New paragraph 130 – balancing urban density uplifts with prevailing character. Rather subtle change. Reference to design codes adopted through local plan.
- Agricultural land – food production should be considered. Fn62 to para 181.
- Written Ministerial Statement, Dec. 23: Threats of further intervention into plan making process, promise of greater resources being given to LPAs for plan-making.
- Review of Green Belt boundaries during plan-making process: *can* do, not *required to*. Segue to GJKC's presentation...



Housing – Green Belt and other key changes



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Compare with what was proposed in consultation in Dec 2022

1. The policy on altering Green Belt boundaries has been amended to insert the bold and delete or move the struck-through text:
2. *Once established, **there is no requirement for Green Belt boundaries should only be altered where exceptional circumstances are fully evidenced and justified, through the preparation or updating of plans to be reviewed or changed when plans are being prepared or updated. Authorities may choose to review and alter Green Belt boundaries where exceptional circumstances are fully evidenced and justified, in which case proposals for changes should be made only through the plan-making process.***
3. Dec. 2022 the govt. proposed that LPA's would not need to review their green belts, even if meeting housing need would be impossible without such a review.
4. However, while the new text in **paragraph 145** continues to make clear there is "no requirement for Green Belt boundaries to be reviewed or changed", it does not *explicitly* state that this trumps meeting housing need.
5. It also adds that LPA's can still choose to review boundaries "where exceptional circumstances" justify.



What Does it mean for the Green Belt?

Overall, the changes have been seen in the industry as giving greater protection to the GB , e.g. Pegasus Group. “The approach to the Green Belt has been strengthened. Once established there is now no requirement in paragraph 145 for the Green Belt boundaries to be reviewed or changed when plans are being prepared or updated” [Underlining in original]

We can also set this assessment in the context of the govt’s response to the consultation in which it said:

“The government has no plans for a national review of the Green Belt. This government is committed to protecting and enhancing the Green Belt. National planning policy includes strong protections for Green Belt land, and this policy will remain firmly in place”

Indeed, the Govt. also stated that:

“In our recent consultation on our proposed approach to updating the National Planning Policy Framework, we proposed to strengthen Green Belt policy by making clear that local authorities are not required to review Green Belt boundaries to meet housing needs. We are analysing responses to the consultation and expect to publish a response later this year.”

Savills has noted that there are 24 local planning authorities in England with more than 70% Green Belt – the majority of these in the South East and East of England. Savills latest research shows only 33% of these are meeting their five-year housing targets.



Compare with what was proposed in consultation in Dec 2022

According to the SoS in his written statement on the changes:

It provides clearer protection for the Green Belt, clarity on how future housing supply should be assessed in plans, certainty on the responsibility of urban authorities to play their full part in meeting housing need and protections for the character of precious neighbourhoods, safeguarding the gentle density of suburbs and ensuring family homes are there for the next generation.

[In particular, the changes] clarify a local lock on any changes to Green Belt boundaries



Green Belt - Political?

During their October 2023 party conference, Labour announced a review of the Green Belt, with Keir Starmer saying “*where there are clearly ridiculous uses of it [Green Belt], disused car parks, dreary wasteland. Not a green belt. A grey belt. Sometimes within a city’s boundary. Then this cannot be justified as a reason to hold our future back*”.

The Govt. characterised this a “*misunderstanding of existing policy*”, the Government stated it would be “clarifying in guidance where brownfield development in the Green Belt can occur provided the openness of Green Belt is not harmed”.

NPPG?

The new paragraph of planning practice guidance says:

“When can development take place on brownfield land in the Green Belt?”

The National Planning Policy Framework sets out the policy on proposals affecting the Green Belt. Where previously developed land is located within the Green Belt, the National Planning Policy Framework sets out the circumstances in which development may not be inappropriate. This includes limited infilling or the partial or complete redevelopment of previously developed land, subject to conditions relating to the potential impact of development on the openness of the Green Belt. The Framework indicates that certain other forms of development are also ‘not inappropriate’ in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. This includes the re-use of buildings provided that the buildings are of permanent and substantial construction”.



Meeting Old Person's Housing

Welcome clarification that plan-makers must now meet an identified need for housing for older people, including consideration of the type of accommodation likely to be required. (contrast previous situation see e.g. *Cooper Strategic Land Estates Ltd v Royal Tunbridge Wells*[2017] EWHC 224 (Admin)). This is clearly a positive move and intended to be such: the SoS that "The Government will also encourage the delivery of older people's housing, including retirement housing, housing-with-care and care homes by requiring these to be specifically considered in establishing need."

Community-Led Self-Build Development

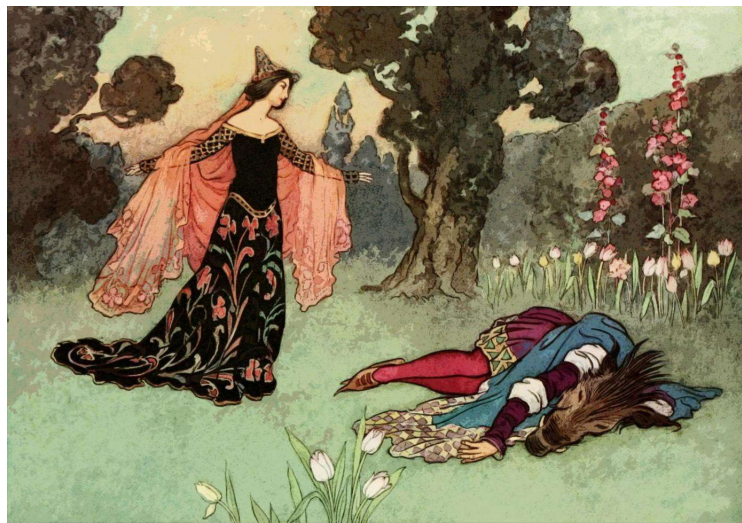
The small sites policy has been expanded to require LPA's policies & decisions to support small sites for community-led development for housing and self-build and custom-build housing to come forward. Other policies have been amended to encourage community-led housing development. The SoS in his written statement said: "The updated NPPF now emphasises the importance of community-led housing development, including by introducing an exception site policy for community-led housing development. Our policy changes also ensure that local authorities should seek opportunities to support small sites to come forward for community-led housing, and self-build and custom build housing. They also encourage 'permission in principle' alongside other routes to permission (such as local development orders) to remove barriers for smaller and medium site builders in the planning system."



Beauty – A Policy Beast?



Morag Ellis KC





Beautiful Policy?



“This Government is committed to building more homes; more quickly, more beautifully and more sustainably... These changes... entrench the importance of beauty in new development... This Government believes in heritage, beauty and community.”

Ministerial written statement 19.12.2023



The Role of Beauty

“Building beautifully and refusing ugliness has been central to the Government’s planning reforms, as the right aesthetic form makes development more likely to be welcomed by the community. **From today, the NPPF goes further to cement the role of beauty and placemaking in the planning system by expressly using the word ‘beautiful’ in relation to ‘well-designed places’.** It also now requires **greater ‘visual clarity’ on design requirements set out in planning conditions** to provide certainty for those implementing planning permissions and **supports gentle density through mansard roof development** where appropriate.”

Character

“This Government believes in **heritage, beauty and community**. It is important that the character of an existing area is respected by new development, **particularly in the historic suburbs of our great towns and cities**. The new NPPF therefore recognises that **there may be situations where significant uplifts in residential densities would be inappropriate** as they would be wholly out of character with the existing area, and that this may in turn affect how much development can be planned for in the area concerned. **This will apply where there is a design code which is adopted or will be adopted as part of the local plan.**”



What's new and beautiful in NPPF December 2023?



Drew Dizzy Graham unsplash



8. *Achieving sustainable development means that the planning system has three overarching objectives...*

b) a social objective...fostering well-designed, beautiful and safe places...

20. **Strategic policies should set out an overall strategy for the pattern, scale and design quality of places (to ensure outcomes support beauty and placemaking)**

74. *The supply of large numbers of new homes can often be best achieved through planning for larger scale development...strategic policy-making authorities should...:*

c) set clear expectations for the quality of the places to be created and how this can be maintained (such as following Garden City principles); and ensure that appropriate tools such as masterplans and design guides or codes are used to secure a variety of well-designed and beautiful homes to meet the needs of different groups in the community.

88. *Planning policies and decisions should enable:*

a) the sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well-designed, beautiful new buildings...



96. *Planning policies and decisions should aim to achieve healthy, inclusive and safe places **and beautiful buildings** which...*

*b) are safe and accessible, so that crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion – for example through the use of **beautiful**, well-designed, clear and legible pedestrian and cycle routes, and high quality public space, which encourage the active and continual use of public areas...*

128. *Planning policies and decisions should support development that makes efficient use of land, taking into account:*

*a) the identified need for different types of housing and other forms of development, and the availability of land suitable for accommodating it; **and ensure that appropriate tools such as masterplans and design guides or codes are used to secure a variety of well-designed and beautiful homes to meet the needs of different groups in the community...***

d) the desirability of maintaining an area's prevailing character and setting (including residential gardens), or of promoting regeneration and change; and

*e) the importance of securing well-designed **and beautiful**, attractive and healthy places.*

129. *Area-based character assessments, design guides and codes and masterplans can be used to help ensure that land is used efficiently while also creating **beautiful** and sustainable places...*



*Chapter 12 Achieving well-designed **and beautiful** places:*

*131. The creation of high quality, **beautiful** and sustainable buildings and places is fundamental to what the planning and development process should achieve...*

*133. ...Design guides and codes provide a local framework for creating **beautiful** and distinctive places with a consistent and high quality standard of design.*



What does it add up to? 1

“Italics = September 2023 / July 2021 version

Bold red = new in December 2023 version

Scattering the ‘B’ word: 10 references in December 2023, 5 in September 2023 / July 2021

Para 96(b) appears to be over-enthusiastic translation: ‘beautiful’ ped / cycle routes?



What does it add up to? 2

A further policy hurdle – Is it “your duty to be beautiful” - or does the Government just “wanna be loved”?

Gove doesn't say that the Government's belief in heritage, beauty and community is new: 5 references in 2021 / September 2023

Remember the Building Beautiful Places Plan (July 2021)?

- “New Office for Place to help councils and communities banish ugly developments and deliver beautiful, green homes and places using Britain's world-class design expertise
- Updated NPPF published, putting beauty at the heart of the planning system
- Publication of the National Model Design Code (NMDC) to put communities in the driving seat of development plans and create local, binding standards”

BUT NPPF (Dec '23) references to strategic policy, design codes and masterplans are new



What is Beauty?

“I did not pursue the notion of beautiful found in the draft NPPF. It is evident, for all the reasons set out, that the Appellant and its supporters consider that the scheme would be beautiful while objectors think it would not. While I certainly accept that innovative designs can be beautiful, in other regards I consider that the concept of beauty or otherwise for this appeal is in the eye of the beholder and that any further discussion is unlikely to be helpful.”

(Inspector David Nicholson’s Report in the ‘Tulip’ Appeal)





Areas of Outstanding Natural Beauty

S.82 Countryside and Rights of Way Act 2000: NE 'may' designate AONBs. No statutory definition of 'natural beauty' BUT

S.99 Natural Environment and Rural Communities Act 2006: landscapes affected by human intervention can have 'natural beauty'

NE' Factors related to Natural Beauty:

Landscape quality - a measure of the physical state or condition of the landscape

Scenic quality - extent to which the landscape appeals to the senses

Relative wildness - particular contribution to sense of place.

Relative tranquility – perception

Natural heritage features - includes flora, fauna, geological and physiographical features.

Cultural heritage - influence on perception and degree to which associations with particular people, artists, writers or events in history contribute to such perception



National Model Design Code

“These documents provide guidance on what constitutes well- designed and beautiful places as well as providing a default checklist of issues that schemes will be expected to address.”



10 Characteristics of Well Designed Places
(National Design Guide Extract)



Decision Making – Is Beauty a Beast?

Subjective nature of concept

Hard to challenge

Results unpredictable: Cranbrook and Cricklewood call-ins



Cranbrook, SoS decision 6.4.23

165 houses proposed in High Weald AONB, supported by Tunbridge Wells BC who had made allocation in emerging Plan and who had no 5 year supply

LPA resolved to grant: 'a rare scheme delivering a package of exceptional benefits'

Objections from High Weald AONB Unit and Natural England

Inspector strongly recommended grant of permission



Cranbrook cont'd

Minister for Planning, Rachel Mclean, disagreed:

Design “does not reflect the expectations of the High Weald Housing Design Guide, being of a generic suburban nature which does not reproduce the constituent elements of local settlements” – neutral in planning balance

Gave ltd weight to housing delivery and other benefits which did not outweigh the high policy tests for major development in AONB

Berkeley challenged and Sec of State has submitted to judgment



Cricklewood, SoS decision 4.12.23

1046 home residential-led mixed use, 18-storey outline scheme called in on design, scale, massing and development plan compliance, after resolution by LB Barnet to approve

LPA changed mind and, at inquiry, opposed on design and heritage grounds

No 5 year supply and significant AH shortfalls

Site allocated for intensification and strategic growth

Insp and SoS found that it would fail to preserve character or appearance and harm setting of CA: harm less than substantial (moderate) and outweighed by benefits, esp AH; compliant with development plan as a whole, despite LPA's reliance on (then) draft NPPF policy on beauty and out of character densities

No reference to beauty or the then draft NPPF in Insp's or SoS' reasoning



Design Codes

Insp and SoS placed weight on Design Code condition to overcome local concerns about outline nature of scheme:

“A design code ... forms part of the outline application and sets moderately detailed instructions for the site and each of the proposed buildings. The illustrative renders seen in some of the views presented to the Inquiry form a fair representation of how the ultimate development may look if detailed design adheres to the design code. Should different architects design the detailed stages of the development, the design code would enable the Council would have sufficient leverage to oversee the quality of detailed design, particularly in terms of layout, massing, appearance, and landscaping...sufficiently robust to ensure the ultimate design would be of high quality.”



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