

## Tonbridge and Malling Borough Council

### National Planning Policy Framework – Response to Consultation

Unless otherwise stated, it can be assumed that the Borough Council either supports, or has no particular view, on the content of the NPPF. The response is set out in the order of the Questions and then in the order of the paragraphs in the NPPF.

#### Question 1a, 1b Delivering Sustainable Development (paras 9-19)

##### **Does the Framework have the right approach to establishing and defining the presumption in favour of sustainable development?**

**Sustainable Development** (paras 9-12) The NPPF uses the definition of sustainability taken from *'Our Common Future'* produced by the Brundtland Commission. This is a balanced definition with equal weight given to the three pillars of the economy, society and the environment with an understanding that they are interconnected. However, this balanced definition is not properly reflected throughout the NPPF because of the undue emphasis on supporting economic growth (see para 13, *'significant weight should be placed on the need to support economic growth'* para 14. *'Local planning authorities should plan positively for new development, and approve all individual proposals wherever possible'*, para 19 *'Decision-takers at every level should assume that the default answer to development proposals is 'yes'...*) Whilst economic growth and sustainability are certainly not incompatible, it is not possible, as a matter of national policy, to give priority to one facet over all others. The balanced judgement can only be made in relation to an individual proposal or area at the time the decision is made. It is therefore a highly skewed and inaccurate interpretation of sustainable development.

More significantly the three components of delivering sustainable development as described in para 3 do not fully reflect *"the need to live sustainably within and respect environmental limits to ensure that the natural resources needed for life are unimpaired and remain so for future generations"*. In this respect, the principles of sustainable development set out in the NPPF are not consistent with the Government's own *'Guiding Principles for Sustainable Development'* outlined earlier this year on the Defra website: <http://sd.defra.gov.uk/what/principles>

It is also difficult to reconcile this unbalanced interpretation of sustainable development in favour of economic growth with the mission statement in the Government's own Natural Environment White Paper:

*Our 2020 mission is to halt overall biodiversity loss, support healthy well-functioning ecosystems and establish coherent ecological networks, with more and better places for nature for the benefit of wildlife and people.*

At the same time, the Framework should clarify the alignment between the environmental objectives of sustainability and its economic importance. As the foreword to the Government's own *Carbon Plan* points out:

*This Carbon Plan sets out a vision of a changed Britain, powered by cleaner energy used more efficiently in our homes and businesses, with more secure energy supplies and more stable energy prices, and benefitting from the jobs and growth that a low-carbon economy will bring.*

Making this link more explicit would give greater coherence to the rationale of the Framework. This same point might also usefully be reinforced in the section on planning for prosperity.

In summary, the implication of the balance being wrong is that the NPPF will fail to achieve its ultimate goal of sustainable development. In the interests of joined-up Government, a single, clear, consistent approach to sustainable development is required otherwise there is a danger that key principles may not be effectively followed by certain sectors.

**Presumption in favour** (paras 13-18): Whilst the precedence of the development plan (as set out in Section 38(6) of the 2004 Act) is reflected to some extent in para 14 (*development proposals that accord with statutory plans should be approved without delay*) and para 62 (*Local Plans.....are the starting point for the determination of any planning application*) it would be better if the presumption in favour made specific reference to the primacy of the development plan. Furthermore, Section 70(2) of the Town and Country Planning Act (requiring local planning authorities to have regard to "*other material considerations*") will continue to apply, and this should likewise be reflected in the presumption in favour. The following wording would be more appropriate and in line with the law:

*There should be a presumption in favour of development which is in accordance with an up-to-date, adopted development plan unless material considerations indicate otherwise.*

One such "material consideration" would be the existence of the NPPF. To the extent that the Local Plan might be at variance with the NPPF, so the NPPF would simply take precedence. This would be no different to the situation that has previously existed every time a new PPS has been published. For the definition of what comprises an "up-to-date" plan see the response to para 26 below.

We feel that the expectation in para 14 that all development will automatically be approved unless its adverse impacts "*would significantly and demonstrably outweigh the benefits, when assessed against the policies (in the Framework) taken as a whole*" tips the balance too far in favour of a blanket and uncritical approval of development; sits uneasily with the principles of localism and

would be a difficult test to apply in practice, in relation to a fifty-two page policy document containing some 88 policies that may well point towards different conclusions. Greater clarity is needed to demonstrate explicitly that local considerations properly and proportionately assessed can weigh in the balance of other considerations, which by law the Local Planning Authorities are bound to take into account

As worded, this test would apply to all development, however minor. Whilst there may be perfectly valid local reasons for refusing a particular development, putting the onus on the local planning authority to prove that something as minor as an unsuitable house extension or change of use undermines national policy seems to be an unduly onerous test. Whilst the Government's objective could be retained, it could be expressed in a more proportionate way and one that has regard to legitimate local considerations.

Why, under para 16 is the Birds and Habitats Directive singled out as apparently only constraint that that would make a proposed development unsustainable. What about RAMSAR Sites, SACs and SSSIs for example. In any case, it repeats verbatim para 170 which is where it should be.

**Core Planning Principles:** (para19) If planning authorities are expected to place so much emphasis on pro-actively driving forward and supporting growth, meeting development needs in full and not over-burdening development with financial impositions then this will seriously compromise their ability to deliver the other social and environmental principles set out in para 19. If authorities are expected to accept proposals as they are submitted and are unable to seek improvements on the basis that to do so might impose additional costs on developers (see para 39), this will limit their ability to promote mixed-use schemes, encourage the use of renewable energy, promote resilience to climate change, advocate designs and layouts that promote alternative forms of transport to the private car, improve health and well-being and secure the infrastructure the community needs. This will not deliver wholly sustainable development.

The core planning principles contain no reference whatsoever to localism and the discretion this gives to local councils and their communities. If, in the absence of an up-to-date Local Plan, the NPPF is take precedence then this will deny local communities any say in how the future of their communities are shaped until such time as a new Plan is in place. For the reasons given below this may be several years.

The fourth bullet point of para 19 should continue to give priority to the use of **previously developed land** since re-using an existing resource will nearly always be a more sustainable solution than developing a greenfield site .

**Succinct Local Plans:** The first bullet in Para 19 refers to the need for succinct Local Plans. But the expectation in para 14 that local authorities should approve all development on which their plan is "*silent or indeterminate*" is likely to have the unintended consequence of encouraging authorities to try to draft plans which anticipate every eventuality. This will work counter to the

aim of having more rapidly-produced and more concise plans. Local Plans will need to be detailed and comprehensive rather than succinct. This will have implications for the time and cost it takes to prepare them.

We understand, and generally welcome, the search for brevity in the Framework. However, PPSs and PPGs (and the RSSs) included quite a lot of useful policy that was used daily in decision-making. Local Authorities were specifically asked not to repeat these policies in their LDFs (PPS12 – Para 4.30). In the case of some RSS policies they formed the foundation for LDF policies. If they are not now retained in some form there will be a policy vacuum and lack of context for certain LDF policies. In consequence, we are likely to see the gradual piecemeal re-introduction of these generic policies into individual Local Plans. This would be a retrograde step. The NPPF should advise LPAs how best to address this matter, to ensure a consistent and valid approach across the country in the **transitional period** before Plans are reviewed.

### **Question 2a Plan-making (paras 20-52)**

**Has the Framework clarified the tests of soundness and introduced a useful additional test to ensure local plans are positively prepared to meet objectively assessed need and infrastructure requirements?**

**Local Plans:** The section on Local Plans refers to Local Plans, Development Plan Documents and Development Plans. There is no mention of Local Development Frameworks. Given that the draft Local Planning Regulations (2012) make no reference at all to Local Plans but do define what a Development Plan Document is (Part 3) the NPPF should clearly explain that in future the principal Development Plan Document is the Local Plan so there is no confusion and to ensure existing Development Plan Documents are recognised as being part of the Local Plan. In this respect, there needs to be a **transitional provision** to enable existing suites of Development Plan Documents to automatically become the Local Plan for an area.

We welcome the flexibility in para 21 for local authorities to decide how many Development Plan Documents are appropriate for their area, rather than having a “one-size-fits-all” limit of one document per authority. However, the procedural benefits of preparing a Land Allocations Document separate from the part of the Local Plan that sets out the “Strategic Priorities” (para 23) for an area should be recognised, in that this enables speedier review of those parts of the plan that are more likely to become out-of-date. Similar considerations could apply to Area Action Plans.

We note that in para 21 **Supplementary Planning Documents** can only be prepared where their production “*can help to bring forward sustainable development at an accelerated rate, and must not be used to add to the financial burdens on development*”. This implies that the only sort of Supplementary Planning Document that can be prepared are things like a Development Brief for a particular site, but what about Affordable Housing

SPDs and other SPDs which seek to improve or protect the environment (e.g. Design Guides and Character Area Appraisals)? The test is too restrictive and does not allow SPDs to be prepared to amplify constructively policies in a adopted plan which should be their main purpose.

**Longer-term requirements:** We would welcome clarification of what the Framework means (at para 24) by plans “*taking account of longer-term requirements*”. What sort of longer-term requirements? How long-term? Is it talking about plans making specific allocations of land beyond the 15-year time horizon?

**Public Engagement** (para 25): There is no mention of the role of **Statements of Community Involvement**. Do these still have to be prepared? Likewise, there is no mention of the **Sustainable Community Strategy** which was central to the LDF process.

**Up-to-date Plans:** Para 26 defines an up-to-date Local Plan as being one which is “*consistent*” with the NPPF. The preciseness of this definition is going to mean that every adopted DPD in the Country is probably going to have to be reviewed which could take anything up to 3 years or more and throw the planning system into chaos again.

An up-to-date Local Plan should be defined as one that is in “*general conformity*” with the NPPF. The term “*general conformity*” is defined in the Glossary but only in respect of Neighbourhood Plans. In the Glossary it says that case law indicates that a policy is in “*General Conformity if it upholds the general principles of the policy or issue it is concerned with*”. It goes on to say that it does not mean “*strict conformity with every single strategic policy but overall conformity with the strategic policies of the Plan*”. This definition should be extended so that applies to the relationship between Local Plans and the NPPF. This should be made clear in the Glossary.

**Certificate of conformity** (Para 26): A Certificate of Conformity will be a cumbersome, complex, time-consuming, expensive and completely unnecessary process if the definition of the presumption in favour of development referred to above is adopted, including the “*general conformity*” and “*other material considerations*” provisions. It is also confusing, because it appears to be voluntary. It begs the question as to what the status of an adopted Local Plan would be if a planning authority simply chose not to seek a Certificate?

If a Local Plan is in the course of preparation then whether it “*conforms generally*” to the terms of the NPPF should be one of the tests of soundness. In the case of an adopted Local Plan (DPD) then to the extent that it was not in “*general conformity*” with a particular matter so the terms of the NPPF would be “*a material consideration*” and would take precedence over the Local Plan. This is exactly the situation that has prevailed for many years in the case of new PPSs. There is no need for a formal Certification process.

One thing that must be avoided because of this requirement is the temptation for authorities to abandon adopted core strategies, or those on which work is well advanced, and go back to square one with a new plan in order to ensure compliance with the NPPF. This would lead to a considerable hiatus in plan-making, which would in turn discourage the development the Government is keen to see taking place. The approach we have suggested above would avoid this being the case.

**Housing requirements** (Para 28): This paragraph alternates between meeting “*housing need*” and “*housing demand*” and also talks about “*housing requirements*”. This is confusing. We would strongly oppose any model based on meeting demand. In large parts of the South East (and elsewhere) demand far exceeds anything that could reasonably be delivered having regard to historic build rates even when the market was buoyant. Planning should be about meeting housing needs, not housing demand.

The paragraph is also internally contradictory. On the one hand it talks of the plan (though the SHMA) catering for the needs of the “local population”. In the very next line, it talks of the plan also having regard to needs arising from migration. Elsewhere, there is even the suggestion that an authority might need to accommodate needs from a neighbouring authority. It is particularly difficult to understand how plans are supposed to have regard to migration in the absence of any strategic guidance on the subject. The only reasonable basis would be to assume a perpetuation of past trends which would not provide any opportunity to promote new directions of growth or restraint where these are justified in pursuit of a sustainable pattern of development. Nor is it realistic to expect groups of local authorities, even acting under the duty to cooperate, to come up with major proposals on the scale of new or expanded towns if these are needed.

The requirement to meet housing needs in full is incompatible with the principle of localism where it should be a choice at the local level as to how much of the identified need should and could be met having regard to local economic and environmental circumstances.

We are surprised that the NPPF makes no mention of the weight to be afforded in planning decisions to the financial incentives to encourage housing development (New Homes Bonus) and economic development (local retention of Business Rates).

Revised, and much simplified, Supplementary Guidance on the preparation of SHMAs and SLAAs is needed. In particular the Guidance on SHLAAs should not require the unnecessary identification of greenfield sites if sufficient land to meet housing needs can be identified within built-up areas. In the case of SHMAs a much simpler approach to identifying housing needs (rather than aspirations) should be devised that can be used consistently across the Country.

**Definition of infrastructure** (Para 31): The definition of infrastructure seems narrower than that used for Community Infrastructure Levy. There is certainly

no mention of Green Infrastructure. We believe it would be helpful for government policy to operate on the basis of a consistent definition (possibly that used for CIL). Failing that, the addition of a simple catch-all “*and other infrastructure*” at the end of the list of specific items might address the problem in this case.

**Environmental Assessment** (Para 36): “Assessments... should not repeat the assessment of higher level policy”. Which higher-level policy? Is this a reference purely to national policy, if not, to what is it referring?

**Ensuring Viability and Deliverability** (paras 39 - 43): It would be useful to have further guidance as to how the “*acceptable returns*” referred to in para 39 are to be evaluated by the planning authority and, more particularly, how they are to be anticipated in a plan which may span a number of economic cycles, with corresponding variations in what might constitute “*acceptable*”.

It is difficult to see how a charge (CIL) can “*incentivise*” new development as referred to in para 40.

One interpretation of the statement in para 41 that “*local planning authorities should facilitate development throughout the economic cycle*” is that infrastructure contribution requirements should be set at a level that can be sustained even at the very bottom of the economic cycle. This would seriously restrict the contribution that CIL could make to meeting infrastructure needs. Clarification of what this statement means in practice would be helpful.

**Neighbourhood Plans** (Paras 49 - 52): The opportunity should be taken to clarify the relationship between the Local Plan and Neighbourhood Plans. For a Local Plan to be found sound it would have to allocate sufficient housing sites to meet the requirement (plus at least 20%). It should be made clear that a Neighbourhood Plan would not be able to delete development allocations in an adopted Local Plan, it can only add to them. To do otherwise, would remove the certainty that the development plan should have. The current wording that refers only to the “*strategic policies of the local plan*” is unclear and could imply to a local community that it could use a Neighbourhood Plan to alter the development content of the Local Plan. This would be unacceptable in terms of providing confidence to landowners and developers.

There is in any case potential conflict (or, at least, scope for confusion) between paragraph 50 (“*Neighbourhood plans, therefore, must be in general conformity with the strategic policies of the local plan...*”) and paragraph 51 (“*When a neighbourhood plan is made, the policies it contains take precedence over existing policies in the local plan for that neighbourhood...*”).

## **Question 2c, 2d Joint working**

**Do the policies for planning strategically across local boundaries provide a clear framework and enough flexibility for Councils and other bodies to work together effectively?**

**Planning Strategically across Local boundaries** (Paras 44 - 48): The requirement in para 48 for authorities to cover unmet requirements from their neighbouring authorities seems to suggest that the neighbour's plan (and its unmet requirements) would need to have been identified beforehand. How will an authority deal with a situation where its emerging plan identifies needs which cannot be met within their own area, but where all its neighbours already have recently-adopted plans that take no account of them? This whole area of inter-authority cooperation seems fraught with difficulty.

In fact, we find the whole concept of joint working to be extremely optimistic, if only for practical, let alone political, reasons. In this respect, it needs to be born in mind that neighbouring authorities will inevitably be at different stages in their plan-making process. We need to avoid a situation where the lack of progress by local authority A becomes an excuse or genuine reason for delay in the plan-making process of authority B, or alternatively that authority B tries to use its plan to railroad authority A into a particular position that it might not otherwise have taken.

Planning strategically and collaborating seems to presuppose that there is always a consensus waiting to be arrived at. The reality is that some strategic issues will not be readily resolved. What is the penalty for non-co-operation. How is it to be policed and enforced? The NPPF should at least acknowledge this and explain what happens under these circumstances.

### **Question 3a, 3b Decision taking** (Paras 53-70)

#### **Is the level of detail in the policies on development management appropriate?**

We support the principle enshrined in the first bullet point in para 54. "*Looking for solutions rather than problems so that applications can be approved wherever practical to do so*". This positive approach is one that this Council already adopts. However, it would be better worded as "*Looking for solutions to problems so that applications can be approved wherever practical to do so.*" It must be recognised that the applicant must also adopt a positive and constructive approach towards addressing any identified problems if a satisfactory solution is to be achieved.

It is not clear what the final sentence of para 55 is saying. There is already a presumption in favour of development and the majority of planning applications nationally and in this Borough are already approved.

The Framework states in para 58 "*The more issues considered at pre-application stage, the greater the benefits*" – a statement which we support. However, it then potentially undermines this stance by saying that "*Consents relating to how a development is built or operated can be dealt with at a later stage*" (same paragraph). All of our experience shows that the earlier the



issues involved are considered the greater will be both the potential opportunity to secure improvements with potential cost savings.

**Enforcement:** The development management section contains no reference at all to enforcement. This is surely a sufficiently important part of the planning process to warrant some mention. In particular, we would suggest that it acknowledges the fact that one of the responsibilities of the local planning authority is to decide whether it is expedient to enforce against a particular breach of the planning legislation and in assessing expediency we would expect a strong policy position to be stated aimed at achieving compliance with sustainable development.

#### **Question 4a, 4b Separate guidance**

##### **Should any guidance necessary to support the new Framework be light touch and provided by organisations outside Government?**

The preparation of Supplementary Guidance can certainly be prepared by other approved organisations but it must be endorsed by Government to give it a degree of authenticity. However, this process would need to be tightly controlled by Government, otherwise the amount of Guidance will grow in an uncontrolled way and we will be back where we started from and all the benefits of brevity in the NPPF will be lost. It is most important, in this respect, that Guidance on particular subjects is not duplicated by different organisations. There should be only one authorised version of each piece of Guidance to avoid contradictory advice.

From our reading of the NPPF Supplementary Guidance is required but limited to the following matters:

- Identification of local housing needs (much simplified version of SHMA Guidance)
- Simplified version of SHLAA Guidance.
- Practice Guidance from English Heritage on Enabling Development
- Practice Guidance from English Heritage on the identification of Local Heritage Assets
- Practice Guidance on Agricultural, Forestry and other Occupational Dwellings (from Annex A to PPS7)
- Practice Guidance from the Environment Agency on the Sequential Test and the Exception Test (from Annex D to PPS25)

#### **Question 5a, 5b Business and economic development (Paras 71 -94)**

##### **Will the planning for business policies encourage economic activity and give business the certainty and confidence to invest?**

**Employment land:** There is a potential conflict between para 24, which seems to encourage the making of long-term designations of land and para

75, which argues against the long term protection of employment land. It is not clear how this will help achieve the objective of securing sustainable economic growth. The result of this policy could be a net loss of employment land and a shortfall in supply which is at odds with the overarching objective of securing economic growth. If such employment land is not safeguarded then other more valuable uses like retail or residential will be developed on it which will ultimately mean the allocation of more land for employment purposes.

What it should say is:

*“Land safeguarded for employment purposes should not be carried forward from one version of the Local Plan to the next without evidence of the need and reasonable prospect of its take-up during the plan period. If there is no reasonable prospect of a site being used for economic development then the allocation should not be retained and alternative uses should be considered. This should be based upon an up-to-date Employment Land Review”.*

Such a change should only take place through the review of the Local Plan when the wider implications can be considered. It is not appropriate for such a potentially significant judgement to be made in relation to an individual planning application. There are considerable resource implications for both the applicant and the planning authority in testing the need for a site to be retained in relation to an individual application.

### **Question 5c Market signals**

**What market signals could be most useful in plan-making and decisions and how could such information be best used to inform decisions?**

**Market signals and long-term planning:** (Para19) Whilst it would clearly be inappropriate for a plan to completely ignore current market signals, it has to be recognised that a fifteen-year plan will span a number of economic cycles. The affordability of housing is a key factor, but even more important is to understand and take account of market factors that affect the delivery of housing. In some circumstances, it may be necessary for planning authorities to use their powers to bring forward stalled sites and this approach should be commended in the NPPF.

### **Question 6a, 6b Town centre policies (Paras 76 – 80)**

**Will the town centre policies enable communities to encourage retail, business and leisure development in the right locations and protect the vitality and viability of town centres?**

The NPPF now separates guidance on retail and town centres from economic development and economic development and the rural economy under the section "Planning for Prosperity". This is welcomed.

Town centre first principle and the sequential test remain which we support.

In the fifth bullet point of para 76 it would be helpful if the words "*type of retail*" were to be defined/explained perhaps in a footnote (food/non-food, comparison/convenience, bulky goods, etc).

In the second bullet point of para 80 it is not considered to be practicable to assess the impact of a proposal over a 10 year period. The evidence is that too much can change in terms of retail practice over such a period to make it meaningful. It should remain at 5 years as in PPS4.

### **Support the Rural Economy**

In para 81 all three bullet points should be covered by the caveat that the development should respect the character of the countryside, not just the final bullet point. This could be covered by a sweeping-up clause at the end the paragraph saying:

*"All such development should respect the character of the countryside"*

### **Question 7a, 7b Transport policies (Paras 82 – 94)**

**Transport:** The objectives of transport policy (para 84) miss the social objective of transport policy, in terms of giving people access to essential services.

In paragraph 86 we believe that the same approach should be adopted as for the threshold for retail impact assessments in para 79. The term "*significant amounts of movements*" should be defined at a national level until or unless local criteria have been established through the development plan process.

**Parking:** In para 94 we believe a word is missing. We presume it should refer to "*local parking standards*". We cannot see how the final bullet point relating to the "*need to reduce the use of high emission vehicles*" can possibly work through the normal Development Management process.

### **Question 8a, 8b Communications infrastructure (Paras 95 – 99)**

**Are the policies on communications infrastructure adequate to allow effective communications development and technological advances?**

No comments.

## **Question 9a, 9b Minerals (Paras 100 – 106)**

### **Do the policies on minerals planning take the right approach?**

**Minerals planning:** This section refers throughout to “*local planning authorities*”. In two-tier local government areas, the local planning authority and the “*minerals planning authority*” are not the same. We also suggest that the reference to “*demand*” in para 32 should say “*need*”, and should also have regard to the potential for recycled aggregates to meet part of the requirement.

## **Question 10a, 10b Housing (paras 107 -113)**

### **Will the policies on housing enable communities to deliver a wide choice of high quality homes in the right location to meet local demand?**

The first bullet point under para 109 talks of meeting “*the full requirements for market and affordable housing*”. As mentioned earlier, there is a need for Supplementary Guidance on the important issue of projecting local housing need so that is done on a consistent basis throughout the Country. The current SHMA Guidance is not appropriate for this purpose because it tends to identify housing aspirations rather than need.

In many parts of the southern England, even if the authority’s full housing allocation could be delivered as affordable, it would not be possible to meet forecast demand for affordable housing. For many such authorities, fully meeting that demand would be economically undeliverable, particularly without grant, and environmentally unsustainable.

The second bullet point under para109 refers to a “*rolling 5-year supply*”. It should be made clear in this context that houses completed in previous years count towards the overall supply and that the residual approach still applies (ie the remaining requirement at any point in time should have regard to the dwellings already completed during the plan period). The justification for an at least 20% margin on the 5 years supply is questionable bearing in mind the fact that the 5 years supply is supposed to only include sites which are deliverable. If windfalls are then added to the supply (once they are complete) this could mean an over-supply of 40% or more. Such variation from the planned delivery rates makes infrastructure planning and Environmental Assessment very difficult.

In response to questions, it has been said that the at least 20% margin only applies to the 5 year supply and that it is merely bringing forward identified sites from the 5-10 year period and does not increase the overall housing requirement during the overall plan period. If this is the case, then this should be made clear in the NPPF. However, it is hard to see how increasing the rolling 5 year supply by at least 20% does not, by the end of the plan period, mean that at least 20% more housing has been provided than originally

planned for. Clarification is needed and the words “*at least*” need to be omitted as they will give rise to various interpretations and arguments.

**Windfalls:** The fourth bullet point in para 109 reaffirms the advice in PPS3 that windfalls should not be counted for the first 10 years of supply. We continue to be most concerned about the inability to count windfall development because it is often a significant and reliable element of supply. To not count it makes it difficult to plan for infrastructure and services and could well give rise to the need to release greenfield sites and even Green Belt land prematurely or unnecessarily. Whatever happens, it should be made clear in the NPPF that it is “*projected windfalls*” that cannot be counted in the 10 year supply. Once implemented, windfall development must count towards supply, otherwise there will be a false record of the number dwellings provided in any given period.

**Housing in Rural Areas:** The third bullet point of para 113 should include reference to the building being “*of permanent and substantial construction and capable of conversion without complete reconstruction*”.

This section needs to cross-refer to Supplementary Guidance which is currently included in Annex A to PPS7 which should be retained in some form.

#### **Question 11a, 11b Planning for schools (para 127)**

##### **Does the policy on planning for schools take the right approach?**

We welcome the Government’s decision not to pursue the idea of taking large parts of school-related development out of planning control.

#### **Question 12a, 12b Design (paras 114 – 123)**

##### **Is the policy on design appropriate and useful?**

The section on design seems to be devoted entirely to aesthetic matters. At least some reference should be made to the impact of design and layout on sustainability.

The proposal in para 121 (carried forward from PPS7) to encourage innovative design seems highly subjective and likely to give rise to endless disputes and appeals. We are not convinced that good design (even if it can be satisfactorily defined and agreed upon by all concerned) should automatically be allowed to override other legitimate policy reasons (possibly including policy enshrined in the NPPF itself) for not building housing in a particular location.

#### **Sustainable Communities (paras 124 – 132)**

In para 128 the NPPF identifies the need for planning policies to protect and enhance rights of way and access. It should be made clear that this is solely in relation to development proposals; otherwise it is not a matter for planning. The County Authority has responsibility for managing these networks and has an obligation to prepare and adopt a Countryside Access Improvement Plan and prepare Countryside Access Design Standards.

The NPPF should include a clear definition, either in the main text, a footnote or in the Glossary of the term **Local Green Space**. Para.130 supports the designation of Local Green Spaces but para.131 then states that this designation will not be appropriate for ‘...most green areas or open space.’ It says it must be “local in character” but “not extensive”. This is confusing.

### **Question 13a, 13b Green Belt (par133 – 147)**

#### **Does the policy on Green Belt give a strong clear message on Green Belt protection?**

It is disingenuous of the Government to suggest that its policies will have no effect on the protection of the Green Belt. Whilst the policies protecting the Green Belt are clear and have not significantly changed from those in PPG2, it is the requirement to meet the **full** housing needs of an area that will end up leading to the loss of Green Belt land in authorities where their main settlements are surrounded by Green Belt. Even if existing Safeguarded Land is sufficient to meet those needs, there is likely to be a need to take further land out of the Green Belt to compensate for the loss of the Safeguarded Land.

The third and fourth bullet points under para 144 could usefully be replaced with the following:

- *The extension, alteration or replacement of a building of permanent and substantial construction, provided the resulting building is not materially worse in terms of its impact on the openness of the Green Belt and preferably reduces that impact.*

It is important to establish that in the case of re-use of buildings that they are permanent structures and capable of conversion. Furthermore, the size of the building relative to the original building is not what is important. What is important is the impact of the resulting building on the openness of the Green Belt. For example, it may be possible to replace a three storey building with a larger two storey one or with a larger building on a lower or more concealed part of the site either of which would have benefits for the openness of the Green Belt.

We do have concerns that the subtle change of wording that now allows the extension, alteration or replacement of any building and not just a dwelling in the Green Belt may lead to a significant amount of additional housing in non-sustainable locations in the Green Belt together with their associated curtilage paraphernalia. Much control has been lost with deletion of Annex D to PPS2. In this respect, the Green Belt policy seems more accommodating than para

113 in respect of housing in rural areas. It would be helpful for there to be a cross-reference that makes it clear that the terms of para 113 would also apply to any residential development in the Green Belt.

Para 145 sets out a list of development '*not inappropriate in the Green Belt provided they preserve the openness of the Green Belt and do not conflict with the purposes of including land in Green Belt.*' The last bullet point refers to development brought forward under a **Community Right to Build Order**. This suggests that such Orders will override Green Belt policy. However, para 50 states that Neighbourhood Plans must be in general conformity with the strategic policies of the Local Plan. It would be useful to clarify precedence in this matter.

In any case, it is very hard to see how, what are likely to be relatively substantial developments, can possibly comply with the terms of the introductory sentence to the paragraph. It would be much better to retain the Exception Site Policy from PPS3 (para 30) which allowed affordable housing to be built in the Green Belt and elsewhere in the countryside on sites that would not normally be used for housing. A Community Right to Build proposal could then be regarded under very special circumstances as an exception under the terms of this policy. The approach suggested in the NPPF will mean that sites for affordable housing will either have to be removed from the Green Belt (which would require a time-consuming and expensive formal review of the Development Plan) or otherwise found within existing built-up areas which will be difficult to achieve, more expensive and therefore probably non-viable.

As an aside, we question why Community Right to Build is only mentioned under the Green Belt section. Such schemes can presumably be promoted anywhere. It would probably be best to include them under para 113 in the context of the Exception Site policy.

**Community Forests** (para 147) It is not clear why Community Forests are mentioned only in the Green Belt section. If mentioned at all they should be in the section headed Natural Environment.

**Question 14a, 14b Climate change, flooding and coastal change** (paras 148 – 153)

### **Does the policy on Climate Change take the right approach?**

The NPPF should recognise the cross-cutting nature of climate change and its impacts on areas such as biodiversity, open space provision, water use, physical infrastructure, transport, use of materials (embedded energy), and health and well-being. It should recognise the importance of good design in mitigating and adapting to climate change - not just location and layout. For climate change adaptation, it should not just focus on flood risk. It should mention the heat island effect, especially in urban areas, and include in the objectives measures for "cooling" - both for buildings and also for the

public realm. To support these points, in the Design section, it should state that local planning authorities should ensure that development takes into account sustainable design and construction.

The NPPF supports local strategies to mitigate and adapt to climate change and supports cuts in greenhouse emissions (para 42). This is welcomed. However it is not clear what the policy is on setting local standards for a building's sustainability. Para 150 states that these local requirements '*should be consistent with the Government's zero carbon buildings policy*'. However, this is followed by '*...and adopt nationally described standards*'. The latter part of this sentence suggests that, contrary to the previous requirement in the Supplement to PPS1, there it is now no scope to have local requirements. This also suggests that local plans should replicate national policy, which would result in a policy that is not locally distinctive and adds no value to the national position. This section needs clarification. The following sentences from the PPS1 Supplement on Climate Change are worthy of retention (para.31):

*'There will be situations where it could be appropriate for planning authorities to anticipate levels of building sustainability in advance of those set out nationally. When proposing any local requirements for sustainable buildings planning authorities must be able to demonstrate clearly the local circumstances that warrant and allow this.'*

#### **Question 14c, 14d Renewable energy (paras 152 – 153)**

**Does the policy on Renewable Energy support the delivery of renewable low carbon energy?**

No comment

#### **Question 14e, 14f Renewable and low carbon energy (para 152 - 153)**

**Does the Framework set out clear and workable proposals for planning and development management for renewable and low carbon energy including the test for developments proposed outside of opportunity areas identified by local authorities?**

No comments.

#### **Question 4g, 14h Flooding and coastal change (paras 154 – 162)**

**Does the policy on flooding and coastal change provide the right level of protection?**

In light of the support for sustainable economic growth highlighted throughout the NPPF, this section does not appear to recognise that many towns and



cities are, for historical reasons, centred along river systems. The NPPF needs to acknowledge this fact and that the future vitality and viability of these towns and cities is dependent upon development in their central areas. Para.156 (on the sequential approach) should acknowledge that where the principal objective of steering new development to areas with the lowest probability of flooding cannot be wholly achieved because of the pressing need to deliver wider sustainability and economic benefits, the primary objective should be to pursue flood risk management, mitigation and enhancement measures to allow the development to happen in a safe and acceptable way, rather than start with a presumption against that development. This is touched on in footnote 10 on page 44. However, it is considered that this is an important piece of policy that should feature in the main text.

In footnote 9 on page 44 it says that “*the sequential test should not be applied to minor development and to changes of use*”. Logic would argue that the sequential test should also not be applied in the case of a redevelopment where the footprint has not been changed. In terms of impact on flooding this would be no different to a change of use. The term “*minor development*” should be defined.

In para 158 we strongly support the view that applicants should not need to apply the sequential test on individual sites which have been subject the sequential test through the development plan process. In the second sentence, pursuant to the point made above, it should refer to “*Applications for minor development, changes of use or a redevelopment where the footprint has not changed*”.

It would be helpful to include a cross-reference to Annex D in PPS25 that should be retained and up-dated to fully explain the Sequential and Exception Tests. Failing which, the tables from that Annex should be included in the final version of the NPPF.

#### **Question 15a, 15b Natural and local environment (paras 163 – 175)**

##### **Does the policy on the natural and local environment provide the appropriate framework to protect and enhance the environment?**

**Natural Environment** – should not be placed right at the end of the NPPF because it is an important pillar of sustainable development and should be an integral component of all policies. In this respect, the word “*countryside*” appears only four times in the whole document. There should be a statement similar to that which once existed in PPS7 to the effect that:

*The Government’s overall aim is to protect the countryside for the sake of its intrinsic character and beauty, the diversity of its landscapes, heritage, and wildlife and wealth of its natural resources.*

The advice is not strong enough in terms of protecting and enhancing biodiversity using terms such as ‘*encourage*’ (para.169) and ‘*where possible*’ (para.164). This tone does not reflect the Government’s position in the **Nature White Paper** which states:

*‘We will move from net biodiversity loss to net gain, by supporting healthy, well-functioning ecosystems and coherent ecological networks.’*

The general weakness of the NPPF policies on Biodiversity questions whether the following 2020 mission statement set out in the White Paper will be effectively achieved. It reads:

*‘Our 2020 mission is to halt overall biodiversity loss, support healthy well-functioning ecosystems and establish coherent ecological networks, with more and better places for nature for the benefit of wildlife and people.’*

There is very little mention of **ancient woodland** (it is lost in the Natural Environment section) in terms of its biodiversity function. The first sentence in para 10 of PPS9 is worthy of inclusion in the NPPF. It states:

*‘Ancient woodland is a valuable biodiversity resource both for its diversity of species and for its longevity as woodland.’*

The final part of para 165 is unnecessary verbatim repetition of paragraphs in earlier chapters.

We welcome the reference in para 166 to the need for a criteria-based policy to protect wildlife sites and landscape areas distinguishing between the hierarchy of international, national and local designations.

It is not clear why in para 167 the conservation of wildlife and cultural heritage should be given greater weight in National Parks and the Broads than in AsONB, since the primary reason for the designation of these areas is their natural beauty, not their wildlife and cultural heritage.

The mention in para 168 of identifying, preserving and restoring priority habitats and ecological networks is welcomed.

There is a need for the term **biodiversity** to be clearly defined in the Glossary.

#### **Question 16a, 16b Historic environment (paras 176 – 191)**

#### **Does the policy provide the right level of protection for heritage assets?**

We are puzzled by the requirement for clairvoyance on the part of local authorities in para 37, in predicting the discovery of “*previously unidentified heritage assets*”.

Para 179 should say “*that lack special architectural or historic interest*”.

Para 190 should cross-refer by means of a footnote to English Heritage’s published guidance on enabling development.

There needs to be a clearer definition in the Glossary and a policy distinction drawn between a “*Designated Heritage Asset*” and other “*Heritage Assets*”.

As mentioned above, there will need to be Supplementary Guidance to ensure a consistent approach towards the identification of Local Heritage Assets.

### **Question 17a Impact assessment**

**Is the Impact Assessment a fair and reasonable representation of the costs, benefits and impacts of introducing the new Framework?**

No Comment

### **Gypsies and Travellers**

At the time of responding to consultation on the draft Circular in July, we commented that it seemed premature to be revising the Circulars when the draft NPPF was about to be published and that it would be disproportionate if the full 8 pages of the Circular were to be included in the NPPF when the entire document, dealing with the full gambit of planning issues, was not likely to be much more than 50 pages long.

We understand that the Government has indicated that it intends to revise the policy and guidance on Gypsies and Travellers in the light of the earlier consultation response and incorporate a version of it in the final NPPF without further consultation. This is not acceptable. The guidance may either be inadequate or disproportionate depending upon what Government decides to do. There must be a further stage of consultation on this particular matter before the final advice appears in the NPPF.

### **General Points**

**Presentation:** Whilst the document is well written it is not well structured. It is not immediately evident what is national policy and what is explanatory or supporting text. We would commend the style of presentation in the most recent PPSs (eg PPS4), where the policy is clearly stated in bold which provides clarity and certainty as to what the Government’s National Planning Policy is on a particular issue.

It would be useful for the NPPF to include a specific list of the Government guidance which it supersedes. This currently appears in the accompanying Consultation Document but not in the framework itself.

It would also be useful for the final version to have an **Index**.