

‘Spilling the tea’ on the NPPF Will it deliver the homes we need?

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No festive season is complete without a government announcement at the eleventh hour and so by now you'll almost certainly have seen the highly anticipated NPPF which landed on our desks just before the Christmas break. The publication was accompanied by a speech from the Secretary of State Michael Gove MP who unveiled a summary of the planning reforms contained within.

Having spent some time digesting the document itself, and reading the wide range of opinion pieces and legal blogs available online, we thought we would ‘spill the tea’ on the changes with a specific focus on the implications for planning applications in the residential sector.

Whilst we won't assess the impact on plan-making in detail, we touch on what we consider are some of the most important headlines for housing numbers.

A double Christmas present

You will most likely have noted that whilst it was first published on 19th December, it was quickly followed by an amendment to paragraph 14(b) on the 20th December. As the first publication has not been formally superseded by the second publication, and both documents set out under paragraph 230 that they were published on 19th December, we find ourselves lucky enough to now have two December 2023 NPPF's, both of which are live documents – so ensure you are referring to the latest version!

A softening in places

Overall, the new NPPF broadly aligns with the consultation draft which was first published a little over a year ago and received over 26,000 responses, although it does appear to have been softened and watered down in some places.

Calculating housing need

Paragraph 61 reaffirms that the standard method for calculating housing need is an “advisory starting point” for local planning authorities in generating housing numbers. The particular demographic characteristics



of an area is given as one example of what may qualify as ‘exceptional circumstances’ to justify an alternative approach. A total of 71% of respondents to the consultation agreed that policy and guidance should be clearer on what may constitute an exceptional circumstance, but it appears that as per the previous NPPF, the door remains open for what does and does not qualify.

The ever present Green Belt

The only change to the Green Belt chapter, but nonetheless a significant one, paragraph 145 makes clear that there is “no requirement” for local planning authorities to review their Green Belt boundaries during plan-making; however, unlike the consultation version, the December 2023 NPPF does not explicitly link this issue to housing supply. It also goes on to state that local planning authorities can still choose to review boundaries where ‘exceptional circumstances’ are fully evidenced and justified. Whether local planning authorities would choose to volunteer their hand under this option to provide is another matter entirely. That said, when reading a subtle change to paragraphs 15 and 60, Local Plans should now “meet” housing needs, rather than just “address” housing needs!

Watered down 5 YHLS

With the Government's drive on getting Local Plans in place, perhaps the biggest change is that which can be found under paragraph 76. This stipulates that local planning authorities with an up-to-date Local Plan (less than 5 years old) at the time of the December 2023 NPPF adoption, and which identified at least a five-year supply of deliverable sites when the Local Plan was adopted, will no longer need to continually show a five-year housing land supply (5YHLS). This provides a "get out of jail free card" to what appears to be just over 90 local planning authorities.

Paragraph 226 sets out that from 19th December 2023, and for decision-making purposes only, local planning authorities who have an emerging Local Plan which has either been submitted for examination or has reached Regulation 18 or 19 stage, will only need to demonstrate a four-year housing land supply (4YHLS) (with a 20% buffer if applicable – noting that the 5% and 10% buffers have fallen away). This is against their housing requirement set out in adopted strategic policies, or against local housing need where the strategic policies are more than five years old. It is worth noting that these arrangements will expire after 19th December 2025 (a transitional period of two years) and relate only to the position as at 19th December 2023. i.e. if a Local Plan reached Regulation 18 stage on 20th December 2023, it would not benefit from the transitional arrangements.

Ultimately, for applications submitted prior to 19th December 2023 but not yet determined; which rely on a 5YHLS argument; and are located in a local planning authority which benefits from the transitional arrangements - applicant's may now find themselves in a tricky position. Whereby the local planning authority cannot demonstrate a 5YHLS, but can demonstrate a 4YHLS, and subsequently the presumption in favour of sustainable development under paragraph 11(d) no longer applies. Therefore, it appears that we may see less 5YHLS arguments coming forward, at least for the time being.

But none of this matters if a local planning authorities' Housing Delivery Test position confirms a result of 75% or below (of the housing requirement over the previous three years), in which case the presumption continues to apply - in addition to the requirements for an action plan and 20% buffer. Those eagle eyed readers will also be aware that the updated Housing Delivery Test figures (2022) were published by the government alongside the NPPF on 19th December 2023.

Need help navigating the new NPPF and what this means for your site? Please do get in contact with a member of our team and we would be very happy to assist.

Neighbourhood Planning

At Neighbourhood Plan level, we draw your attention to the amendments under paragraph 14. Under the September 2023 NPPF, if a Neighbourhood Plan became part of the development plan within the last two years (and criterion b, c and d were also met), and in a local planning authority ordinarily subject to the presumption, the presumption would be disapplied. However, the December 2023 NPPF grants an additional three-year grace period – so, for a site that falls within a Neighbourhood Plan boundary, and benefits from a Neighbourhood Plan made within the last five years which includes housing allocations, the presumption is now disapplied for five years.

An emphasis on housing types

The NPPF continues to push for housing delivery growth, but it is worth noting that paragraph 63 also now sees the added emphasis on providing retirement housing, housing-with-care and care homes to respond to the aging population.

London vs. the rest

Looking at housing delivery in London specifically, on 19th December 2023, the Secretary of State appointed a panel of expert advisers to consider any changes to the London Plan which might facilitate housing delivery in London. It is understood that the review will be completed, and a report submitted by 15th January so watch this space...

Does it achieve what it promised?

Whilst the new NPPF is intended to help streamline the planning process, the industry will no doubt need to spend some time digesting what all this really means in practice, not to mention trying to quantify abstract concepts such as "beauty". Therefore, only time will tell whether the changes that have been made will really speed up the planning system. With that all said and done, it remains the case that achieving effective planning reform, can, and will, only be achieved in its purest form when accompanied by the right investment, support and training.

Notwithstanding the above, the other question is whether the new NPPF is to little or no avail, with big question marks over the outcome of the General Election which could see all these changes reversed.



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