

Richborough Estates recently submitted a written response to the Department of Communities and Local Government concerning the draft National Planning Policy Framework (NPPF) and this is a summary of the submission.

The planning system has continued to evolve since the first comprehensive Town & Country Planning Act was introduced in 1947. It is important that the planning system should continue to evolve as no system is perfect and planning, like other regulatory controls, has to adapt to society's changing needs.

Since the last consolidating Planning Act was introduced in 1990, further significant policy changes have continued to come forward including the Planning & Compulsory Purchase Act of 2004 and a raft of Planning Policy Guidance Statements covering a vast array of topic areas. There can be little doubt that this has resulted in a far too complex and over regulated planning system that both inhibits effective decision making and which can often result in a costly and time consuming process.

Accordingly, we would very much welcome any reasoned move towards consolidating and simplifying planning policy and guidance and, at the same time, a balanced and considered approach should be taken to amending certain aspects of policy guidance where changes need to be made to address society's changing needs. However any changes must be reasoned, balanced and well drafted to provide the necessary clarity and certainty that will make for a transparent and efficient planning framework, without which housing development and economic growth will be frustrated.

The draft PPF is to be commended in its attempt to simplify planning policy, but it will require considerable amendment and redrafting if it is to serve its purpose and provide an effective tool to stimulate growth whilst respecting and protecting recognised environmental concerns and objectives. As drafted the NPPF lacks sufficient clarity in many vital policy areas resulting in a confusion of direction and interpretation. This will inevitably result in poor and inconsistent decision making which will frustrate communities and the development industry, thereby failing in the very purpose to which it was intended to serve. Before commenting upon specific parts of the NPPF to illustrate our concerns, it is important to comment upon an aspect of emerging Government policy that will have a significant effect upon housing growth in particular and which will need to be reflected in whatever emerges as the final version of the NPPF.

This concerns the proposed abolition of RSS through the Localism Bill and its implications for the delivery of housing growth outside of London. Although RSS remains in force following the legal challenge by CALA, the Government's intention to abolish it has produced widespread uncertainty, confusion and delay. Many Local Planning Authorities have delayed progress on bringing forward Local Development Plans and in some instances have abandoned Core Strategies that have nearly reached adoption stage, (such as with Coventry City Council,) with the clear intention of significantly reducing the housing requirement to produce more locally acceptable housing policies. Whilst this may reflect in part the Government's desire to place more control in the hands of Local Planning Authorities and local communities, which is an objective that we are supportive of in principle, it raises the obvious concern that local political pressures to restrict house building, particularly on green field sites, will invariably result in Development Plans being brought forward that fail to plan for the real housing needs of not only individual local authority areas, but collectively across the wider sub-regions. Research already shows that across the Country Local Planning Authorities are planning to significantly reduce their

individual housing requirements that were imposed through RSS and that collectively this will result in a serious under provision in housing supply nationwide.

This has very serious consequences for National housing policy and runs wholly counter to the Government's stated commitment to deliver the increased levels of housing growth. It is therefore critically important that policies are put into place and which are reflected in the NPPF to ensure that this situation cannot be allowed to develop on the back of the move towards more localised decision making.

In the absence of regionally generated housing figures through RSS, it is difficult to see how effective housing policy can emerge through individual development plans for each Local Planning Authority area that will ensure that housing needs beyond administrative boundaries can be met. Whilst we acknowledge and welcome the changes to the Localism Bill that are aimed at requiring Local Planning Authorities to cooperate with neighbouring Councils on cross boundary issues to include housing need, in practise it is difficult to see how this will be enforced. Setting aside the obvious difficulty that neighbouring Local Authorities may often have totally different political objectives when it comes to planning policy and housing need, whilst the duty to cooperate requires Councils to demonstrate the measures that have been put in place to cooperate on cross boundary issues, it's difficult to envisage how Inspectors will be able to firstly arrive at an agreed and robust assessment of sub regional housing need and secondly to ensure that where the housing needs of the Local Authority Area to which he/she is examining are in part to be met in neighbouring Authority areas, how this can be secured if the Inspector has no jurisdiction over the soundness of the neighbouring authorities' development plan documents. Given that development plans will inevitably be brought forward at different timescales, it will be impossible for Inspectors to pay due regard to plans in neighbouring areas where cross boundary issues may apply, if those plans have either been adopted or else have yet to come forward.

We therefore have strong reservations about the practical implications of enforcing the intended duty to cooperate, in the absence of there being in place proper mechanisms for assessing both the scale of housing requirements that relate to housing areas beyond individual council boundaries and the difficulty of enforcing neighbouring authorities to help meet cross boundary housing requirements when the development document that is being examined does not apply to these neighbouring administrative areas. As such, it is important that the NPPF can satisfactorily address this concern to ensure that the Government's commitment to boost house building can be realised.

Turning to more detailed and specific comments that we have on the NPPF, we will confine our response to those aspects of the document that concern the core part of our business, being the promotion of strategic development sites especially residential land.

### **Presumption in favour of sustainable development**

Richborough Estates welcomes and supports the reestablishment of the presumption in favour of development that used to be a core principle upon which the planning system was based until it was abandoned in 1990 in favour of a plan led system. Planning should always be based upon the presumption that development should be permitted unless planning considerations clearly demonstrate that adverse impacts would significantly outweigh the benefits.

Any such presumption has to respect the requirement enshrined in Section 38 (6) of the Planning & Compulsory Purchase Act 2004 that applications must be determined in accordance with the development plan unless material considerations indicate otherwise. As the NPPF will become a material planning consideration then there need be no irresolvable conflict between re-establishing a presumption in favour of development and the requirement in Section 38 (6) providing that the NPPF provides clear guidance on how any conflict between the two should be dealt with by the decision maker. There will always be the potential for conflict to arise in applying a presumption in favour of development against the requirements of Section 38 (6) and whilst it would be impossible to legislate away any such conflict completely, providing the advice in the NPPF is clear it will be up to the decision-maker to resolve conflicts as they arise, having regard to the advice in the NPPF and the requirements of Section 38 (6). Inevitably this will give rise to a period of uncertainty and appeals to establish how decision makers are resolving any such conflict, but we believe that this is an acceptable price to pay to allow for the reestablishment of the presumption in favour of development.

The presumption is of course to be applied to sustainable development. We take no issue with the use of the term sustainable in this context, since it is an objective that is enshrined in many aspects of planning policy. The obvious difficulty in applying the term is that there is no commonly accepted definition and therefore it will invariably be the case that deciding whether or not a development is sustainable will be open to individual interpretation. This will raise the concern that decisions will lack consistency as different definitions are applied and hence it will be important for the NPPF to provide more detailed guidance on the way in which the objective of sustainable development is to be achieved. In this respect, any such guidance should avoid over-simplistic generalisations such as brownfield land is more sustainable than green field. If the specific circumstances of brownfield and green field sites were identical this statement would be acceptable, but the overall sustainability credentials of individual sites are dependent upon a range of site specific factors which may collectively point to a green field site being more sustainable than a brown field one. Hence the NPPF, in trying to define the term sustainability, should provide further clarification of the range of factors that should be applied to any such interpretation rather than avoiding generalised statements.

### **Core Planning Principles**

Planning is the business of balancing often conflicting pressures and interests and therefore it is important that the NPPF in identifying a set of the core planning objectives should recognise that the weight that can be given to each objective will vary according to circumstance. With regard to the principles identified in paragraph 19 of the NPPF, whilst many reflect accepted planning objectives, the wording is far too loose and open to interpretation. Core planning objectives need to be adequately defined so as to give the decision-maker a clear understanding of what is intended. Phrases such as "plans should be kept up to date" are too vague and do not provide sufficient direction.

### **Plan-making**

Despite every attempt by Governments of different persuasions over the last 20 or so years, plan making remains a long drawn out process where the gap between the collection and examination of evidence and the eventual adoption of the Plan can stretch to many years. This can often discredit the evidence base that underpins the policies in the Plan not

long after the Plan is finally adopted and there are many examples whereby Plans have been adopted after the date when they were intended to have expired and been replaced.

There is no reason to suspect that Plan making will become any more efficient and less time consuming in future years. The strengthened requirements to engage the public and local businesses in the Plan-making process can only lengthen the period of plan preparation as evidenced by the delays that are being caused to plan making throughout the Country as Local Planning Authorities try to respond to the Government's localism agenda. Effective public consultation is a time consuming procedure and therefore the process of collecting evidence, consulting the public, examining the evidence and then finally adopting the Plan is inevitably going to result in many years of formulation of policy which, by the time plans become adopted, will require them to be reviewed at regular intervals to ensure that policies are still robust. To add to this concern, the duty to collaborate on issues that cross administrative boundaries will greatly lengthen the process of policy formulation and complicate it if neighbouring authorities are cooperating to different timescales in plan preparation. The intention to abolish RSS through the Localism Bill means that the "duty to collaborate" is of vital importance to strategic planning issues such as housing, employment and transportation and that, in the absence of any formalised sub-regional structure for administering on these matters, it will be critical to ensure that the duty to cooperate is enforced so as to provide an effective means of addressing cross boundary issues. We remain extremely sceptical about the practicality of finding a mechanism to enforce the required level of cross boundary cooperation, but whatever system is eventually introduced it will inevitably have significant implications for the timescales for Plan-making.

Accordingly, the NPPF needs to provide more detailed and clearer advice on the need for Local Plans to be up-dated and the evidence base upon which policies have been framed to be constantly monitored and reported upon to ensure that policies remain robust. This is particularly important given that the proposed presumption in favour of sustainable development is to be introduced alongside the requirement in Section 38 (6) since it will be a matter for the decision maker to determine whether the evidence underpinning adopted policy is still sufficiently robust where there is any conflict with the presumption in favour of allowing sustainable development to go ahead.

## **Neighbourhood Plans**

We support the Government's commitment to involve the community and local businesses in Local Plan preparation and in formulating neighbourhood plans since this will help to engage the community in responding positively to planning for the needs of the area rather than perpetuating the commonly held belief that people only get involved in planning matters when development is being proposed on their doorstep. Development resulting in changes to an area invariably causes concern and fears in people and local communities if the benefits as well as the perceived negative aspects of that change are never explained and understood.

However, given that development needs to be accommodated and that communities will need to change and evolve it is inevitable that individuals and neighbourhoods will often see more disadvantages than benefits and hence oppose that change, prioritising the wishes of the local community against the needs of the wider society. It's vital that

housing and economic growth can be fostered and brought forward and not be frustrated by the wishes of a particular local community.

The NPPF makes it clear that Neighbourhood plans must be in general conformity with the Local Plan and the NPPF and this is welcomed. However, our experience is that some Local Planning Authorities are preparing Neighbourhood Plans before the strategic needs of the Local Plan area have been established, which creates the opportunity for the tail to wag the dog by formulating Neighbourhood plans that may inhibit the strategic needs of the Local Plan area from being realised.

Given that the strategic needs of a Local Plan area and those of any neighbouring Council area need to be identified and addressed at a strategic level, the NPPF needs to clearly set out that the needs of neighbourhood plan areas have to respect the wider needs of the area and that these needs and their potential impacts upon neighbourhood plan areas need to have been established before neighbourhood plans can be adopted.

### **Planning for People: Housing**

We fully support and are encouraged by the commitment in the NPPF to increase significantly the delivery of new homes. As promoters of strategic housing sites throughout the UK, we have viewed with significant concern the failure of the planning system to deliver the necessary level of residential land and reject the populist belief that landowners and house builders are frustrating housing delivery by land banking consented sites. House builders will inevitably want to build healthy land banks to show a continuity of supply, but the severe recession that has ravaged the house building industry over the last few years has seriously undermined the viability of many consented sites with the effect that many are unlikely to come forward without renegotiation of the purchase price and/or renegotiation of planning permissions to reduce development costs.

We welcome the measures listed in paragraph 109 to significantly increase the supply of housing. In order to realise this objective, it is important that these measures are strictly adhered to and enforced. In particular it is important to ensure that the evidence base is produced according to an established methodology to ensure a consistency of approach and that the evidence is set out in a form that can be tested to ensure that it is robust.

In paragraph 110 whilst we understand the reasoning behind the qualification to requiring Local Plans to meet the needs of their area by inserting the phrase "unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits", not only would this phrase be too open for individual interpretation, it would enable Councils to deliberately plan not to meet their objectively assessed development needs by citing adverse impact. Notwithstanding the validity or otherwise of such a stance, by not fulfilling the proven needs of their area and if such a position is adopted by their neighbouring areas and by large numbers of Councils throughout the UK, this will result in a significant under provision of housing land which runs totally contrary to the objectives embodied in paragraphs 107-109. This is not to say that Councils should not try to protect environmentally sensitive areas from development, but they should not be able to do so with our being able to demonstrate that unmet housing needs within their area are fully justified and that any such unmet need can and will be addressed by planning for additional housing growth in neighbouring administrative areas. This of course comes back to the need for there to be a sub-regional approach to housing policy, without which the implications embodied in paragraph 110 could be significant.



## **Green Belt**

Green Belt policy has remained largely unchanged since 1955 when local authority areas beyond London were invited to consider establishing areas of Green Belt.

Paragraph 134 sets out the 5 purposes for the Green Belt whilst paragraph 133 highlights that the fundamental aim is to prevent urban sprawl. For consistency the word "unrestricted,, should be inserted before the word "sprawl" in paragraph 133 since this does qualify one of the accepted arms of Green Belt policy and the NPPF should have a consistency of approach.

Whilst we support the aims and objectives of the Green Belt, many professional observers believe that the approach to Green Belt policy needs to be more flexible and to allow for boundaries to be altered to allow development to be accommodated, where it can be proven that development needs exist and where the options for meeting those needs on land beyond the Green Belt are limited and/or would have more unacceptable and damaging consequences upon local communities and/or the environment.

In many instances, areas of existing Green Belt either no longer fulfil the 5 purposes set out in paragraph 134 or that development could be accommodated without undermining these objectives. Furthermore, there will be instances whereby the release of Green Belt land for development will deliver a more sustainable form of land use than developing in less sustainable non-Green Belt areas. Green Belt policy can also have adverse environmental consequences and effects upon the quality of life in urban areas as housing and economic growth is constrained by tightly drawn Green Belt boundaries which can lead to the loss of more valued urban green space, garden grabbing and over concentrations of development.

The NPPF should therefore provide a unique opportunity to adapt established Green Belt policy and bring it more into tune with the needs of modern society. It should require Local planning Authorities to examine long established Green Belt boundaries through the formulation of Local Plans, to ensure that land designated as Green Belt still fulfils the 5 stated purposes and to see whether the boundaries need to be altered in order that short/medium and long term growth needs can be accommodated in a more acceptable and sustainable way. This would in no way undermine the importance and permanence of the Green Belt, as it would ensure that identified growth needs can be accommodated and that boundaries can be re-established to ensure that sustainability objectives can be protected without being constrained by historic Green Belt boundaries that may no longer serve their original purpose.

## **Concluding Comments**

The Government is to be applauded for attempting to simplify National planning policy which has become too complex and burdensome. The present system results in unnecessary delays in the production of Local Plans and in determining planning applications and the whole process is far too inflexible due to the amount of policy and guidance.

Unfortunately a simplified system still requires the policy to be clear, precise and consistent and it is therefore regrettable that the Draft NPPF does not deliver on these important objectives. Throughout the document, phrases are too loose and open to interpretation whilst a lot of the advice seems disjointed and inconsistent.

Certainly the restoration of a presumption in favour of development is extremely welcome and notwithstanding much of the criticism from certain parts of the media and environmental lobby groups, it is critical that this presumption should be retained. The use of the term sustainable development is understandable but unless the NPPF is able to satisfactorily define in clear terms how sustainability is to be measured, it will simply confuse the objective and dilute its effectiveness.

The other principal concern of the NPPF is that it lacks the necessary spatial vision within which strategic growth needs are to be considered and delivered. Whilst the Government's commitment to localism and to involve communities more in decision making and plan preparation is entirely supported, it cannot be to the detriment of strategic thinking where growth needs that require cross boundary cooperation are concerned. The NPPF as drafted does not provide a coherent framework within which the necessary level of strategic planning can be carried out and enforced.

Instead the golden thread that is said to run through the NPPF to deliver growth will not be fulfilled. Accordingly it is vital that the NPPF is redrafted to remove vague and conflicting phrases, to resolve the lack of clarity as to how sustainable development is to be measured and to balance the Government's desire to embrace its localism agenda with the vital need to ensure that important strategic plan making and decision taking can be delivered and enforced.