



LOCALISM AND THE NATIONAL PLANNING POLICY FRAMEWORK

Knight Frank

A NEW APPROACH TO PLANNING

On 13 December 2010 the Government submitted the Localism Bill to Parliament. Building upon a range of influences, most notably the Conservative Party's *Open Source Planning*, the Localism Bill sets a new approach to the planning of land and development.

The Coalition Government's localism agenda marks a dramatic shift away from the system set up by New Labour through the Planning and Compulsory Purchase Act 2004. Whereas the previous system was firmly rooted in a regional and spatial approach to planning, localism focuses instead at the grassroots level. It is concerned with the transfer of power and resources away from central government, directly to communities themselves, premised on the notion that decisions should be taken as closely as possible to the people they affect.

Within localist doctrine, the planning system is set to become a partnership between communities and local authorities, each responding at their own level to the Government's national objectives. These objectives are now published in draft form within a National Planning Policy Framework – available for consultation until October 17 2011.

This paper provides an overview of the Localism Agenda and identifies in greater detail the key themes of the draft National Planning Policy Framework.



LOCALISM: A BRIEF OVERVIEW

Localism is an overarching approach to public service delivery which is having a significant impact upon the planning process in England. Through the Localism Bill, the Government is setting up a new framework for planning which devolves greater powers to councils and neighbourhoods to control development in their areas. This is the driving emphasis behind the draft National Planning Policy Framework.

The power of general competence

- ◆ Local residents will have the power to instigate local referendums on any local issue as well as have greater power to save local facilities and services threatened with closure.
- ◆ Voluntary and community groups will have the right to challenge local authorities over their service provision.

Abolition of regional planning

- ◆ The bill will abolish Regional Spatial Strategies and therefore the policies contained within them – including the much debated housing targets.

Funding considerations

- ◆ Local Authorities will have greater control over their funds including those generated by the Community Infrastructure Levy (CIL)
- ◆ The CIL, which will be fully up and running by 2014, will allow councils to charge developers flat rates for infrastructure associated with new development.
- ◆ The use of legal agreements (under s106 of the Town and Country Planning Act 1990) will be reduced to ensure financial obligations relate only to the mitigation of site-specific issues.
- ◆ The Government is also considering whether financial considerations should be material to the determination of planning applications.

Neighbourhood Planning

- ◆ Local communities will be able to prepare neighbourhood plans, through cooperation with the Local Authority, which if approved in a referendum could take precedence over local development plans.
- ◆ The use of Neighbourhood Development Orders will allow communities to unite together and allocate land for development.
- ◆ In London the Development Agency will be abolished, transferring further powers regarding housing and regeneration to the Mayor's Greater London Authority.



THE NATIONAL PLANNING POLICY FRAMEWORK

Through the National Planning Policy Framework the Government intends to establish a new streamlined approach to planning policy in England. Drawing on the Localism Bill and Agenda for Growth, the NPPF seeks to promote sustainable development while also ensuring planning decisions are made at a grass roots level.

The draft National Planning Policy Framework (NPPF) was published on July 25 2011. The final document will be the 'core' from which all planning policy is based, replacing the current Planning Policy Statements and Guidance. Comments on the draft document are invited until 17 October 2011.

The NPPF supports the localism agenda in its attempts to reduce bureaucracy associated with the planning system and to devolve greater powers to councils and neighbourhoods to control development in their area. The NPPF also responds to the Government's Agenda for Growth by introducing a presumption in favour of sustainable development.

This core NPPF document consolidates over 1000 pages of existing guidance into just 52. This move is intended to make the development process simpler and more accessible – reducing the 'volume and complexity' of the current system. Moreover, the draft NPPF is already material to the consideration of planning applications, giving a clear indication of the Government's 'direction of travel' in planning policy.

The Department for Communities and Local Government (DCLG), responsible for planning policy at the national level, expect this new framework to be in place by April 2012. The final document will draw on responses to the current nationwide round of consultation, during which those seeking improvements and alterations to the NPPF should respond.

The NPPF will have far reaching implications for development in England. It will affect each future planning decision. The current consultation offers landowners and portfolio managers a particular opportunity to protect and enhance their position through response. Comment should therefore be made as soon as possible before the October 17 consultation deadline.

KEY THEMES

Presumption in Favour of Sustainable Development - A presumption in favour of sustainable development where the default answer for development proposals is 'yes'.

Plan Making - Return to the local plan system and the introduction of neighbourhood plans giving communities more power over their locality and the ability to approve development.

Housing Delivery – Regional housing targets to be abolished and targets set locally. Housing supply should include an additional 20% allowance to ensure choice and competition whilst only allocated sites can be identified for development within the first ten years.

Economic Recovery and Growth - Achieving economic growth by supporting and meeting the needs of businesses, ensuring the vitality of town centres whilst identifying edge-of-centre development sites.

The Green Belt and Green Space – Review of existing green belt boundaries. Local and neighbourhood plans can designate land as local green space – largely preventing development.

Renewables and Sustainability – Evidence of need not required although Local Authorities must identify opportunity areas for renewable energy.

Conservation and the Historic Environment – In assessing applications that affect heritage assets, decisions must balance the presumption in favour of sustainable development against the significance of the asset.

A PRESUMPTION IN FAVOUR OF SUSTAINABLE DEVELOPMENT

Under the NPPF, the default answer to all applications is set to become ‘yes’ through the introduction of a presumption in favour of development where it is sustainable.

The intention underpinning this ‘presumption in favour of sustainable development’ is to deliver new development which is in line with planning policy as quickly as possible. Where plans are ‘absent, silent or indeterminate’, new development will be assessed against the NPPF.

Whilst creating a pro-growth planning system, this has the potential to make it more difficult for local authorities to refuse applications. As such it may also result in development which is less appropriate to a certain site coming forward.

This will present opportunities for promoting sustainable development where the development plan is outdated, particularly in rural locations where enterprise is encouraged. It may however also introduce greater risk into the planning process. For example, there is the potential for a greater number of applications to be determined by planning appeal in instances where schemes are refused due to the absence of a plan.



“Development that is sustainable should go ahead, without delay – A presumption in favour of sustainable development that is the basis for every plan, every decision. This framework sets out clearly what could make a proposed plan or development unsustainable.”

Greg Clarke MP
Minister for Housing

PLAN MAKING

The plan making process is to shift from the regional to local level. This will give more power to local people and landowners over the type of development which is acceptable and its location. It holds significant opportunity for individuals and organisations who wish to progress development and have the funding available to get involved in the plan making process.

Neighbourhood Plans

Neighbourhood plans will give communities direct power to plan the areas in which they live. Based on a 'neighbourhood' or parish area, the plans are prepared by neighbourhood groups, parish councils or groups of interested individuals (which can include land and portfolio owners). They aim to enable small scale local development and should accord with the Local Development Plan (prepared by the Local Authority). These can be used to develop a shared vision for local communities and set planning policies for the development and use of land.

Neighbourhood Plans will become 'adopted' by the Local Authority should they receive over 50% of votes at a local referendum. They will then become part of the statutory plan making framework. The Local Authority will be required to provide advice and support, as well as being responsible for checking the plan is legally compliant.

The funding for such documents is less clear. Those with an interest in the development of certain land or property – with funding available – have a key opportunity to help shape a policy which delivers their objectives. They can therefore promote or avoid the allocation of land for housing or green space. When a neighbourhood plan is made, the policies it contains take precedence over existing policies in the Local Plan for that neighbourhood, where they are in conflict.

Development Orders

To bring forward new development in an area, neighbourhoods will be able to use Neighbourhood Development Orders (NDOs) to grant planning permission for schemes themselves. Developments that are permitted through an NDO will not require further planning permission from local planning authorities.

Local authorities will also be able to consider Local Development Orders (LDOs) to relax planning controls for particular areas or categories of development, where the impacts would be acceptable, particularly to boost enterprise and growth.

HOUSING DELIVERY

Prescriptive regional housing targets will be abolished, with Local Authorities required to justify housing numbers. Positive changes will be made to ensure enough housing land is available and the delivery of new homes will become a clear objective of the planning system.

A long-standing concern surrounding the localist approach is that, with regional targets removed, it will create a 'NIMBYs Charter' whereby local housing targets will (in some areas) be dramatically reduced.

As such, there are doubts as to whether the changes will restrict the supply of new land for residential development. It seems however that the Government has gone some way to mitigating these concerns – requiring Councils to take account of household and population projections, taking account of migration and demographic change whilst catering for housing demand at the correct scale.

Local Authorities will remain obligated to prepare a five year rolling housing supply, now with a 20% additional capacity. This effectively introduces a requirement for a six year housing land supply to be provided.

To ensure that housing land supply figures are accurate, Authorities will no longer be able to include 'windfall' (un-allocated) development

within the first ten years. It is also suggested that land allocations be made upon proof that the location is proven financially viable – a highly subjective matter and a responsibility which neither falls clearly with the Authority or landowner. Steps have also been taken to incentivise development and provide certainty to the funding of local services, this includes the New Homes Bonus and Community Infrastructure Levy.

New Homes Bonus

A cash reward for approving new residential development. Based on the increase in new dwellings,

the council will receive additional funding for each new dwelling at the rate of council tax outlined for that property, for the first year and a further five after completion.

Community Infrastructure Levy

Where practical Community Infrastructure Levy charges should be worked up and tested alongside Local Plan. The Community Infrastructure Levy should support and incentivise new development, particularly by placing control over a meaningful proportion of the funds raised with the neighbourhoods where development takes place.

“To ensure viability, the costs of any requirements likely to be applied to development, such as requirements for affordable housing, local standards, infrastructure contributions or other requirements should, when taking account of the normal cost of development and on-site mitigation, provide acceptable returns to a willing land owner and willing developer to enable the development to be deliverable.”

National Planning Policy Framework

ECONOMIC RECOVERY AND GROWTH

There is a clear emphasis to deliver strong economic growth that can help aid the post-recession recovery. This recognises the needs of businesses and seeks to support them through the planning process wherever possible.

The needs of the business community are set to become increasingly important, with support for Business Improvement Districts and Enterprise Zones. At each level, opportunities will exist for businesses to become involved in the planning process whilst Local Authorities will be required to work closely and understand their needs. This is driven by the understanding that business should not be over-burdened by the combined expectations of planning policy.

Positive elements include support for identification of strategic sites for inward investment and the expansion of clusters or networks of knowledge driven, creative or high technology industries. This should help drive growth of a high-value economy and create a 'halo effect' for Research and Development, particularly related to the university sector.

There is also the explicit acknowledgement that town centres are not always appropriate for certain types of development. This could include sites for leisure or retail proposals which could not be accommodated in or adjacent to town centres. To this end, local authorities should begin to identify

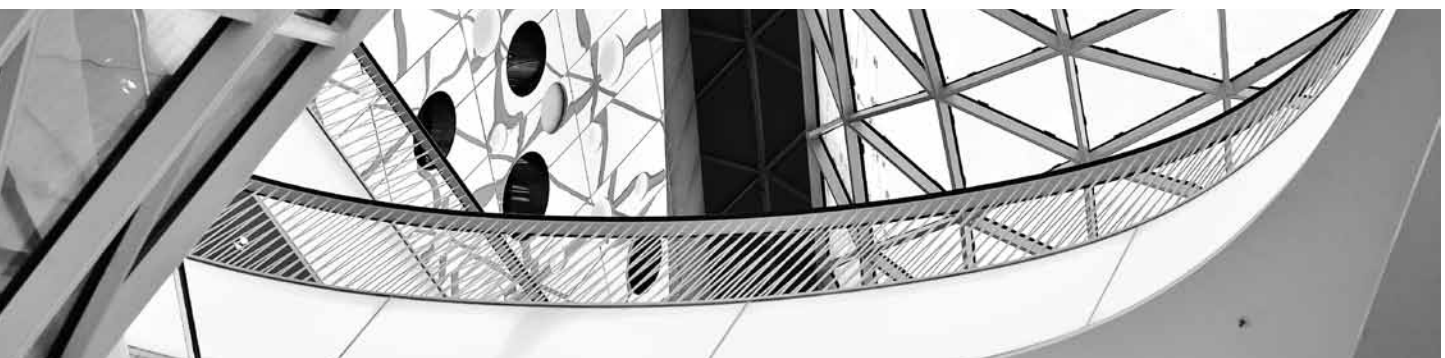
sites for edge-of-centre business development where town centres are not viable.

Edge-of-town Proposals

There is support for development of edge-of-centre sites for schemes which cannot be accommodated elsewhere. A sequential approach will nonetheless be required to assess suitable sites where the use is not existing or allocated in a plan. Potential sites will be considered against a range of criteria, including: availability, suitability, viability and the ability to meet the full extent of quantitative and qualitative needs. The requirement for an impact assessment, to understand its relationship to other businesses, will be locally set – albeit with a national default of 2,500sqm.

Rural Economy

The document explicitly acknowledges the rural economy, for uses in keeping with the countryside. For this reason, one of the Government's three objectives for economic growth is to raise the quality of life and environment in rural areas by promoting thriving and distinctive local economies.



THE GREEN BELT

As Green Belt boundary reviews are to be undertaken locally there will be the opportunity to promote existing sites and villages out of the Green Belt.

There is support for the existing arrangement of the Green Belt and policies will only be altered in exceptional circumstances. No new Green Belt designations are proposed and local planning authorities will have to provide robust and sound evidence if they wish to designate any further Green Belt locations. There is however the opportunity to introduce a second tier to the current approach through the safeguarding of land.

When defining boundaries, local planning authorities should identify areas of 'safeguarded land' between the urban area and Green Belt. This is land which, whilst not allocated for development, does not fall within the Green Belt. It is therefore land which, at the next review, has a greater opportunity for development but which is normally subject to an equally restrictive policy context.

RENEWABLES AND SUSTAINABILITY

Sustainability takes on an important role and may help unlock certain sites for development.

The sustainability emphasis supports reductions in greenhouse gases and the transition to a low-carbon economy. This seeks to ensure new development is provided in sustainable locations, built to a standard which aids the transition to zero carbon. The protection of Green Belts forms a fundamental part of the wider backdrop to this, restricting urban sprawl and maintaining the emphasis on previously developed land.

The document makes clear that Local Authorities should not refuse development for well-designed buildings or infrastructure which promote high levels of sustainability. Moreover, it seeks to restrict the instances where proposals can be refused for incompatibility with the existing townscape. As such, there is clear support for the integration of new design and technology into the built environment but there is clear potential for this to face local opposition in some circumstances.

CONSERVATION AND THE HISTORIC ENVIRONMENT

The draft NPPF takes forward the concept of Heritage Assets and identifies how these should be considered. This seeks for decisions to balance the significance of an asset against the presumption in favour of development.

From the starting point that our historic environment and its heritage assets should be conserved and enjoyed, the framework proposes they are treated in a manner appropriate to their significance. It is a pragmatic approach which should hopefully introduce flexibility into the use of historic buildings and allow for sympathetic re-use, helping to avoid vacancy and abandonment.

An important element of information is to be the need for expert opinion on historic properties or proposals in Conservation Areas. As such, proposals should describe the significance of any heritage assets affected, including any contribution made by their setting. Although the level of detail should be proportionate to the assets' importance, this should make reference to the potential impact of the scheme. The more important the asset, the greater the weight that should be given to its conservation.

Whilst this will protect scheduled monuments, protected wreck sites, battlefields, grade I and II* listed buildings from all but exceptional harm, it creates opportunities for assets of lesser significance. There may, for example, be particular benefits to the way in which Grade II listed buildings are treated or the way in which authorities approach schemes within a Conservation Area. Although the loss of entire heritage assets is less likely, a more flexible approach to their use may be expected. It could therefore be useful for additional clarity over definition as to what constitutes 'substantial harm'.



LEARN MORE

The current NPPF consultation runs until October 17 2011. Engagement by developers and landowners at this stage presents the rare opportunity to secure wide ranging policy gains which could provide benefits over the long term. Knight Frank's Planning team would be pleased to provide more detailed advice upon the specific implications of both localism the NPPF.

How We Can Help

Knight Frank's Planning Department provides strategic and site specific planning advice across the country.

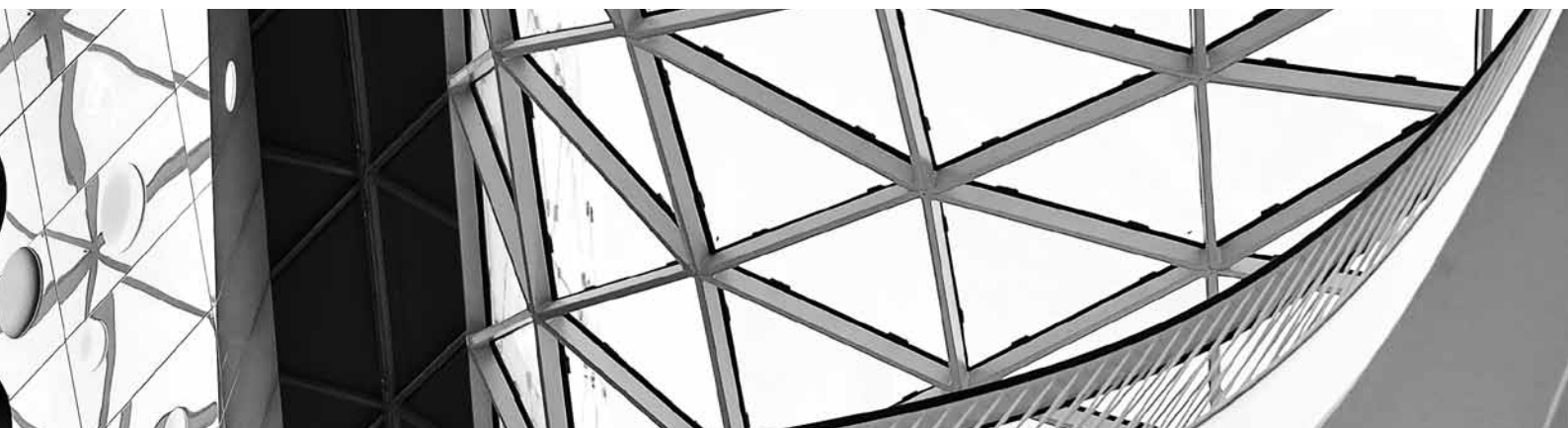
For assistance, please email planning@knightfrank.com or call one of our offices:
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While the dramatic reduction in the expanse of planning guidance will help to improve the accessibility of Government policy, the NPPF's effectiveness in ensuring good quality decision-making at the local level is yet to be seen. The current consultation provides an opportunity to influence the framework and secure changes that will affect consideration of each application and development plan in England.

For developers and landowners this is an important opportunity to ensure the final NPPF provides a positive framework to support sustainable development, remove restrictions to development and reduce the overly technical focus for which planning has been criticised in recent years. Tailored responses now may therefore also help provide the substance that is necessary to provide certainty to the development process.

Knight Frank's commercially focussed team has the skills and expertise to deal with a range of complex and challenging planning issues, protecting and enhancing the position of our clients through an awareness of both long and short term considerations – unlocking property and investment value.

Our Planning team is thoroughly involved with the changing market and policy context. We help steer change at both the local and national level, regularly speaking, writing and commenting on the changing system. It is for this reason that Knight Frank are well-placed to advise on responding to the draft NPPF from both site and portfolio-specific levels.



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