

Brighton & Hove City Council's Response to the Draft NPPF

Delivering sustainable development

1a The Framework has the right approach to establishing and defining the presumption in favour of sustainable development.

Do you: ~~Strongly Agree/Agree/Neither Agree or Disagree/Disagree/Strongly Disagree~~

1b Do you have comments? (Please begin with relevant paragraph number)

- **Definition of Sustainable Development:** Sustainability is widely recognised to comprise of three main pillars : environment, social and economic. The promotion of sustainable development is supported provided it means all elements of sustainability can be appropriately considered to ensure all needs are suitably balanced and sustainably addressed. However the measures introduced by the draft NPPF to facilitate a pro-growth approach are considered to tip the scales too far in favour of economic and housing growth so as to undermine the management of these elements and other land uses in a manner that appropriately addresses and balances the three pillars of sustainability. Sustainable development should be appropriately defined and reflected throughout the NPPF.
- **Definition/meaning of Sustainable Development with paragraphs referenced:** It is considered the priority set in the NPPF to grant development (para 14, 19 [second bullet] and 53) reduces the ability to refuse and consequently reduces the ability to negotiate sustainable solutions to address any harm created. Para's 129,151, 169 [bullet4] and 184 appear to indicate that harm can be justified by virtue of the benefits of development without clearly setting a requirement for the applicant to demonstrate any harm has been minimised. The draft NPPF only indicates a clear need for justification for: harm to heritage assets (para 183); harm to the Green Belt (142/3); new sites for masts/telecommunication development (para 96 and 98); extraction of coal (para 106); and, where possible minimise impacts on and provide net gains in biodiversity (para 164 and 169). The draft NPPF reduces the onus on a developer to demonstrate a development will minimise and not cause significant harm. It is also unclear what regard and weight is to be given to potential harm to the environment such as water aquifers, flooding, pollution, protected species, land stability etc and whether a lack of evidence to demonstrate these can be addressed can form a reason for refusal. The ability of a Local Planning Authority (LPA) to seek solutions to achieve genuine sustainable development is therefore significantly undermined especially when significant weight is to be given to economic and housing growth (para 54). This sits uneasily with the creation of development that is genuinely sustainable and is likely to lead to delays in decision making as applicants will be less willing to negotiate to include solutions to mitigate harm. In turn this will lead to planning by appeal and a shift

NPPF Consultation Questions & Responses

towards a development led approach rather than the stated core planning principle that planning should be genuinely plan-led.

- **Presumption in favour of development:** In addition to this the draft NPPF (by virtue of paragraphs 14, 20, 110 and 165) sets an expectation that development will be approved unless its adverse impacts “would significantly and demonstrably outweigh the benefits, when assessed against the NPPF taken as a whole (which gives significant weight to the benefits of economic and housing growth – para 54, second bullet point). The draft NPPF thus increases the onus on and places the burden of proof with Local Planning Authorities (LPAs), when refusing an application, to demonstrate significant adverse impacts of sufficient scale to outweigh the benefits. As addressed in the bullet point above the draft NPPF does not clearly set a requirement for applicants to minimise harm, address potential harmful impacts or submit justification for a scheme (except as detailed above). The combination of these factors will impact upon the ability to refuse applications where appropriate and the ability to seek improvements. The proposed approach has significant resource implications for those local authorities that deal with thousands of applications every year and are currently facing public sector austerity measures. Such an approach also undermines the provision of genuine sustainable development and undermines the ability of Neighbourhoods to have a real say over what happens in their area and is therefore contrary to localism.
- **The need to protect open space:** If there is an explicit presumption in favour of sustainable development there should be an equally explicit presumption in favour of preserving urban open space. Where development of such finite land is to be considered this should be taken through the plan making process. It is unsustainable to assume a diminishing amount of urban open space can meet the open space needs of a growing population. If the requirement to protect the countryside for its own sake is not to be included in the NPPF then it should be clear that major proposals (10 dwellings or more etc) outside the built up area boundary should be considered through the plan making process. The NPPF should set out a clearer ability to refuse ad hoc proposals within the countryside that are not addressing the needs of the rural community, essential for the rural economy or national infrastructure requirements.
- **Failure to recognise differences in planning context** -The lack of recognition to the variation in factors affecting different areas and regions fails to provide clarity. This impacts upon the ability to meet the expectations in the draft NPPF and is likely to increase the delay in the adoption of local plans. Indeed if the proposed requirement to meet all ‘objectively assessed’ development needs remains together with the proposed requirement to identify 120% of the five year housing requirement at any one time (without windfall) and these are applied rigorously to Brighton & Hove (and other similarly significantly

NPPF Consultation Questions & Responses

constrained local authorities particularly in the South), then the city may find it impossible to have a local plan to be tested sound. The lack of understanding in the NPPF to the range of planning issues confronting many local authorities therefore undermines the stated core planning principle that planning should be genuinely plan-led and thus genuinely sustainable.

- **Insufficient guidance:** – the brevity in the guidance is not supported with sufficient clarity which is undermining the intended aim of simplifying planning. The benefits of development are in general readily put forward by developers thus highlighting the need for clarity within national guidance on the benefits of the more vulnerable land uses such as open space and those providing local social community benefits. Without such clarity the achievement of genuine sustainable development will be undermined and likely to result in a planning system based upon appeals and case law.
- **Para 14** – The third bullet should be removed. It undermines the plan-led system and the localism approach/Neighbourhood Plans. It places little requirement on an applicant to justify a development which is at odds with the numerous requirements placed on LPA's when preparing local plans to which all members of the community are invited to participate and is decided upon through a local democratic process. The draft NPPF places approximately 90 requirements on LPAs, including detailed strategic assessments etc , which are in effect to be in place before a Local Plan is found sufficiently sound to give developers and the public certainty about the type of development that will be permitted in a given location. Whilst this council agrees and is seeking to ensure a local plan is adopted at the earliest opportunity, the expectations and requirements set out within the NPPF are unlikely to quicken the process. The inclusion of this bullet fails to encourage developers (especially those with aspirations that conflict with the findings of assessments, evidence and local neighbourhoods) to engage with the plan making system and is likely to lead to pre-emptive development that could prejudice emerging future allocations needed to address wider requirements. If this bullet is to be retained it should include a requirement for applicants/decisions to have regard to the objectives of published documents by public bodies within the area, up to date evidence and emerging local plans and neighbourhood plans.
- **Para 14 and para 19 (second bullet)** – The default position of granting development should be removed for the reasons detailed above. It fails to take into account the need to consider all material considerations including assessments and evidence produced to support emerging local plans this is considered contrary to legislation¹ and good sustainable planning practice. .

¹ Section 70 (2) of the 1990 Town and Country Planning Act and Section 38 (6) of the Planning and Compulsory Purchase Act 2004 require that a planning application is determined in accordance with the development plan unless material considerations indicate otherwise.

NPPF Consultation Questions & Responses

- **Para 14** – States “approve all individual proposals wherever possible” this should either be deleted (it is unnecessary in view that the majority of applications are granted) or clarity provided in respect of what is meant in respect of ‘wherever possible’ eg technically, viably and/or sustainably. Without clarity this will undermine the plan-led system and give rise to planning by appeal. .
- **Para 10 and Para 19** – As noted above, the NPPF does not clearly define ‘Sustainable Development’. The planning system has always in effect applied a ‘presumption in favour’ of development within the built up area whilst balancing economic, social and environmental factors (the widely recognised three pillars of sustainability). The ministerial foreword to the draft NPPF introduces a description of sustainable development, defining each word and the overall term - development is simply defined as growth. The draft NPPF does not therefore add clarity but instead creates confusion by stating there is to be a presumption in favour of ‘sustainable’ development which could be argued is more stringent. However, the meaning applied to delivering sustainable development (para 10) is biased towards increasing the provision of housing and is not considered to be a comprehensive and clear definition. The presumption in favour of (sustainable) development is to be applied to both urban and rural areas (para 19, 6th bullet) where effective use of land and mixed use development is encouraged. There is no longer a reference to protecting the countryside for its own sake or a target/preference to the use of previously developed land. In view of this, with the application of ‘pro-growth’ measures (in particular para 14, 19 [second bullet], 53 and 54) and no specific requirements on a developer to demonstrate they have had regard to all elements of sustainability it will be hard for a local planning authority to refuse development especially now the NPPF indicates development should not be rendered/considered unviable (para 39).
- **Para 19, third bullet** – Clarification is required regarding the meaning of ‘suitable’ within the statement “Plans should set out a clear strategy for allocating sufficient land which is **suitable** for development in their area.” In some instances it will be clear that some land is unsuitable for development, for example the development of a significantly contaminated site for housing will not be appropriate or viable. In other instances, pressures to meet development needs may endanger sites normally considered unsuitable for development such as urban open space provision such as parks and recreation grounds. Unless a balanced approach can be supported, development will not achieve the creation of sustainable communities and is contrary to the findings of past experience and good planning practice.
- **Para 19 second bullet** – This makes clear the default answer to development proposals is “yes”. As detailed above this makes no reference for a need to have regard to material considerations and is therefore contrary to legislation. .

NPPF Consultation Questions & Responses

- **Viability - Para 39:** Placing viability as an underlying planning policy requirement undermines genuine sustainability objectives. Whilst viability can be a material consideration, especially where the appropriateness of a scheme is finely balanced, it is unsustainable for it to overly constrain appropriate policies and obligations. Viability varies over the short, medium and long term and is more significantly influenced by factors beyond the remits of planning. Without a clear plan-led framework regarding what kind of development and where development is sustainably appropriate, full account of the necessary costs will not be factored in at an early stage when working up a development scheme which in turn leads to claims that obligations and policy burdens are unviable (ie. it is a chicken and egg situation). Effective planning has always resulted in the protection of some lower land value uses which are essential for the creation of sustainable communities. Without clear protection of such uses/sites their retention will become unviable as higher land value uses will undermine their retention. It is important planning policies set clear requirements in order to ensure development is genuinely sustainable rather than the most cost effective (eg ten flats with appropriate daylight/sunlight, outdoor amenity space, cycle and refuse storage etc instead of 15 flats offering poor standards of provision). There will always be schemes that push the boundaries of acceptability and it is important that policies and obligations have sufficient bite to ensure the resultant decision is sustainable after considering the individual merits of the scheme.
- **Para 54, second bullet** – ‘Sustainable Development’ is compromised by the need to attach significant weight to the benefits of economic and housing growth (para 54). The draft NPPF does not similarly detail a need to apply similar weight to social or environmental factors. This bullet should be removed.

Plan-making

2a The Framework has clarified the tests of soundness, and introduces a useful additional test to ensure local plans are positively prepared to meet objectively assessed need and infrastructure requirements.

Do you: ~~Strongly Agree/Agree/Neither Agree or Disagree/Disagree/Strongly Disagree~~

2b Do you have comments? (Please begin with relevant paragraph number)

- **General comment** – Clarification over what is meant by ‘objectively assessed development needs’ would be welcomed.
- **Preparation of Local Plan unlikely to be shortened** In view of the 90 requirements placed on LPAs, which are in effect to be in place for a Local Plan to be found sound it is unlikely the time to adopt a local plan

NPPF Consultation Questions & Responses

will be shortened It is essential a pragmatic approach is taken when applying the tests of soundness which should be applied merely to ensure a Local Authority is not taking a clearly perverse approach to development. For example, plans should be 'judged' on what efforts have been made to go as far as they realistically can in terms of meeting local housing requirements, with regard to a need to create sustainable communities and respect local democratic processes. In respect of "effective" there can never be absolute certainty over deliverability due to the complexities and vagaries of the market and funding streams. The quicker it becomes for a local plan to be adopted the quicker it becomes for plans to be reviewed making them more responsive to changes in the market. If a plan led system is genuinely endorsed it is better for a local plan, locally democratically approved, to be in place to offer certainty to developers and the public alike even if it cannot meet the full expectations of the NPPF.

- **Additional test to be considered:** –Potentially an additional overarching test of soundness should be included to consider the impacts of accepting the plan versus not accepting the plan eg if delayed the evidence base will go out of date and the benefits of undertaking the assessments will be lost to the public. Whilst the principle of having extensive up to date evidence is not disputed it needs to be recognised that in practice this may not be possible especially when the public sector is currently subject to significant austerity measures. There is a need to ensure the plan making system is not so burdensome that it is no longer cost effective. The testing of the soundness of a plan should also take into account that it sits within a local democratic process which in accordance with the localism approach should be given full recognition and respect.

Detailed Comments on the Planning Making section

- Para 21 - it is not clear if the government is intending local authorities prepare one single plan document. The guidance does not clarify how/where justification for further plan documents needs to be made – for example should this be through a Local Development Scheme? This council would welcome flexibility for LPAs 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
- Para 21 – the NPPF seems to propose limiting the role and number of Supplementary Planning Documents (SPD's) which can be prepared but at the same time does not clarify if they can be used to contain policy/ allocation of land or not. We would welcome clarification of the statement that SPD's should not add to financial burdens on development and consequently further clarification on what is to become of Infrastructure Delivery Plans.
- Para 22 – Welcome the clear guidance that local plans should set out the opportunities for development and clear guidance not just for what will be permitted but also what will not be permitted and where. The

NPPF Consultation Questions & Responses

final sentence of this paragraph should help to ensure there is greater focus within local plans on matters that can be managed through planning. However, the role of spatial planning is unclear. It is also unclear how the local plan is to sit with sustainable community strategies.

- Para 23 - No reference to the role/ importance of spatial planning – paragraph 30 of PPS1 and the role of the plan to make clear spatial choices.
- Para 24 - Language is often not clear as to intent/ meaning or emotive e.g. Para 24 Limit ‘freedom’ to change the use’ or ‘identify land which is genuinely important to protect from development’. ‘Genuinely important’ to whom?
 - Para 25 - No reference to the role and status of the Statement of Community Involvement in achieving early and meaningful engagement and collaboration or ensuring a wide section of the community is proactively engaged.
 - Para 26 - No reference to the role of the Local Development Scheme in ensuring up-to-date Local Plans.
 - Para 26 - ‘It will be open to local planning authorities to seek a certificate of conformity with the Framework’ – is this a requirement? Who will issue the certificate and when in the process? Will there be transitional arrangements? Previously, when it was proposed to move away from regional planning guidance, structure, local, waste, minerals and unitary development plans to one of regional spatial strategies (RSS) and local development documents (LDDs) there was clear guidance issued on how to deal with documents at various stages. If the final NPPF is due to be published in Spring next year then this will fall between our Waste & Minerals Core Strategy being submitted and the Examination commencing. It would be useful to have some reassurance that there will be transitional arrangements. There will be many authorities in similar positions. Without transitional arrangements this will delay the production of emerging local plans and undermine the plan-led system including Neighbourhood Planning.
 - Para 26 - No mention of implementation and monitoring of Local Plan or role of Annual Monitoring Report.
 - Para 27 – Further information would be welcomed on what is meant by “take full account of relevant market and economic signals such as land prices to inform judgements about levels of demand”. Some uses command ‘low land values’ as they produce low revenues however they may still be in high demand eg many community facilities, open space, business start up units etc.

Requirements

- Para 28 – requires the preparation of two assessments (SHLAA and SHMA). However there is no detail on how these are to be produced. Further, no reference is given to the assessment of the accommodation requirements of other groups such as Gypsies and Travellers. Without clear practice guidance, assessments will be open to significant challenge which could lead to delay in the adoption of local plans.
- Para 30 - states reviews of land available for economic development should be undertaken at the same time as or combined with SHLAA. This should include “where possible” because there are a number of reasons why this may not be possible. It would be inappropriate to delay the assessment of one purely because a joint review is not possible.
- Para 31 - Where is ‘the need for nationally significant infrastructure’ defined? The removal of formal regional governance structures no longer enables a clear and consistent means of considering and prioritising significant regional or sub-regional transport infrastructure which could contribute towards national policy objectives. The frameworks produced in the south-east for this purpose were well-developed and well-supported and provided a positive basis on which to identify and fund regional area needs.
- Para 36 - they should not repeat the assessment of a higher level policy – does this mean the NPPF? Has this been assessed with a Sustainability Appraisal?

Ensuring viability and deliverability

- Generally the requirement of ‘infrastructure’ and ‘deliverability’ is ambiguous and contradictory (as highlighted in the comments below) and will be subjective, open to interpretation and challenge.
- Para 39 - Further explanation or guidance required for how this is to be balanced with the principals of previous section Delivering Sustainable Development ‘guiding development to sustainable environmental, social, economic solutions’ (Paragraph 10) and how “incentives and relevant (CIL?) charges” and “revenue generated from development will help sustain local services, fund infrastructure and deliver environmental enhancement” (Paragraph 18) as well as delivering the strategic priorities of key infrastructure in the local plan as defined under Paragraph 23
- Para 40 - It is unclear the intention on how CIL is to “incentivise” development and how this is to be balanced with objectives of previous Paragraph 39 where development should “not be subject to such a scale of obligations and policy burdens...” Further guidance is needed on “placing a meaningful proportion of (CIL) funds with neighbourhoods”

NPPF Consultation Questions & Responses

and how this is to be balanced with delivery of 'strategic priorities' and policies to deliver key infrastructure as defined under Paragraph 23 as well as meeting CIL Regulations. ('Incentivise development' is additional to what S106's delivered which sought to address/mitigate the harm created by a development. By virtue of the regard to viability in the draft NPPF it is therefore hard to see how CIL can now encompass 'incentivise development'.)

- Para 41 - As stated above, it is unclear how this is to be balanced with ensuring delivery of 'strategic priorities' for delivering sustainable development and "guiding development to sustainable environmental, social, economic solutions' (Paragraph 10) together with "revenue generated...will help sustain local services, fund infrastructure and deliver environmental enhancement" (Paragraph 18) together with priorities to deliver key infrastructure as defined under Paragraph 23. (S106's were increasingly applied because over the past decade or so Local Authorities have become enablers rather than providers. With public sector efficiency savings and budget cuts greater reliance on the private sector to mitigate and address the demands generated by a development has been necessary. It is therefore hard to see how the expectations in para 39, 40, 41 along with 10, 18, 23 etc can be met unless the Government is requiring the harm from developments not to be mitigated and accept that areas currently with high demand will be degraded eg increased congestion and pollution, lack of school places and open space etc. Which over time, is likely to harm the local economy of the respective areas.)
- Para 41 – states "Local planning authorities...should assess the likely cumulative impacts on development in their area of all existing and proposed local standards, SPDs and policies that support the development plan, when added to nationally required standards". Does this mean instead of an infrastructure delivery plan? Further guidance would be welcomed.
- Para 46 - Clarification is needed how this should be assessed against Paragraph 39 which states "To enable a plan to be deliverable, the sites and the scale of development identified in the plan should not be subject to such a scale of obligations and policy burdens that their ability to be developed viably is threatened" and previous Paragraph 41
- Para 47- Does producing 'joint infrastructure and investment plans' mean instead of an "infrastructure delivery plan" – as needed to support a Core Strategy?

Examining Local Plans

- Para 48 - Part of the tests of soundness is the plan is positively prepared – accepted and welcomed but then that it should be based on a strategy which seeks to meet unmet requirements from neighbouring authorities where it is practicable to do so. That is not covered under the core planning principles.

NPPF Consultation Questions & Responses

- Intended status of Inspectors report would be welcomed here.

Neighbourhood Plans

- Is further detail proposed to be produced to guide local communities for such a new area of plan making?

Omissions

- No reference here to having regard to community strategies.

Joint working

2c The policies for planning strategically across local boundaries provide a clear framework and enough flexibility for councils and other bodies to work together effectively.

Do you: ~~Strongly Agree/Agree/Neither Agree or Disagree/Disagree/Strongly Disagree~~

2d Do you have comments? (Please begin with relevant paragraph number)

- Para's 44 to 47 – This section appears to be aimed more at planning issues with relatively local cross-border implications as it refers to neighbouring authorities. Strategic planning also has to deal with issues of regional scale and national scales of significance, where there may not always be 'mutually beneficial' outcomes. Key items of infrastructure, such as power stations or specialist waste treatment facilities may serve much wider areas to meet regional or even national needs. It is unclear how such facilities will be identified – who will prepare the evidence base, monitoring etc? Reference is made to provision of 'necessary infrastructure' but at what scale should this be considered?
- Para 101 - For minerals there is reference to the Aggregates Working Parties (para 101) and this is welcomed as they have an important role in informing decisions on strategic planning.

Decision taking

3a In the policies on development management, the level of detail is appropriate.

Do you: ~~Strongly Agree/Agree/Neither Agree or Disagree/Disagree/Strongly Disagree~~

3b Do you have comments? (Please begin with relevant paragraph number)

- Para 53 – This clearly directs that development management should not hinder or prevent development (which is not the same as 'managing change' and 'not seek its prevention'). This undermines and significantly hinders a planning authority's control/negotiating powers when seeking

NPPF Consultation Questions & Responses

solutions to resolve conflicts with policies and recognised sustainability issues. Without a clear ability to refuse inappropriate development a developer will be less likely to amend a scheme to take into account suggested solutions to resolve conflicts with policy or sustainability issues (catch 22 situation). It is unclear how this is to be read when proposals are submitted to develop important urban open spaces, highlighting the need for a presumption in favour of preserving urban open space (including space in the urban fringe which serves the needs of an urban area).

- Para 54 –specific reference to attaching “significant weight to the benefits of economic and housing growth”. The draft NPPF does not similarly detail a need to give similar weight and consideration to social or environmental factors. This undermines the balance between the three pillars of sustainability and thus the provision of ‘Sustainable Development’. In view of paragraphs 53, 14 and para 19, (second bullet), it is unlikely that sufficient regard will be given to the solutions requested by a LPA to enable the delivery of genuine sustainable development by applicants when negotiating amendments. When read alongside para 20, 110 and 165 it is likely an applicant will take the view that development will only be refused if significant harm can be demonstrated by the Local Planning Authority sufficient to outweigh the benefits of the scheme. Solutions and amendments sought by a LPA to overcome potential harm, improve sustainability and the quality of development and reflect the views of neighbourhoods may not therefore be incorporated.
- Para 54, first bullet – in order to achieve sustainable development the word ‘practical’ should be replaced with ‘sustainable’. The inclusion of the word ‘practical’ in this context is unclear and open to debate (eg does it mean technically practical, viably practical, sustainably practical etc). It does not specifically indicate sustainable development will be the end result.
- Para 62 – Indicates local plans and neighbourhood plans are the starting point for the determination of any planning application, there is no reference to the regard to be had to other material considerations. It is therefore unclear what the ‘end point’ should be especially in view of paragraphs 14, para 19 (second bullet) and 53 which do not indicate proposals contrary to a local/neighbourhood plan should be refused. This is not the same as Section 70 (2) of the 1990 Town and Country Planning Act and Section 38 (6) of the Planning and Compulsory Purchase Act 2004 which requires that a planning application is determined in accordance with the development plan unless material considerations indicate otherwise. Development plans help give developers and the public certainty about the type of development that will be permitted at a given location. This council therefore objects to paragraph 62 along with 14, 19 (second) and 53 as they undermine the stated principle that planning should be genuinely plan-led (as detailed in para 19 [first bullet] and para 62) and are contrary to legislation.
- Para 64 - this appears to be worded in such a manner as to discourage Local Planning Authorities from using Article 4 Directions. This does not fit

NPPF Consultation Questions & Responses

well with the Localism agenda. In Brighton & Hove Article 4 Directions have often been sought by, and supported by, local communities as a means on conserving their areas. Article 4 Directions can therefore be a positive tool in helping to create sustainable communities not simply a negative constraint on development.

- Para 66 – provides a reference to ‘independent examiners’. It would be welcomed if further clarity could be provided on this matter eg who will be an independent examiner (who is to be charged for the examination and examiner).

4a Any guidance needed to support the new Framework should be light-touch and could be provided by organisations outside Government.

Do you: ~~Strongly Agree/Agree/Neither Agree or Disagree/Disagree/Strongly Disagree~~

- In view of the requirements within the draft NPPF for up to date evidence, assessments and a need to objectively assess development needs, it is not considered appropriate for supporting guidance to the NPPF to be light touch. If clear robust guidance is not provided then it will lead to inconsistencies between authority areas and challenges from the development industry that the assessments are not comprehensive and/or up to date.
- Whilst it maybe appropriate for other organisations to assist in the preparation of guidance, for appropriate weight to be applied, the Government would need to endorse the guidance. This would also enable the Government to ensure the intention to of consolidate guidance is not undermined.
- A light touch approach would only be appropriate if the NPPF is amended to genuinely devolve power to Local Authorities to decide what assessments are needed in their area. Any references in the NPPF to assessments should make it clear they are not requirements but could assist in the plan making and decision process.

4b What should any separate guidance cover and who is best placed to provide it?

[unclear which section of the NPPF document this relates to, its ordering in the question sheet suggests it related to the Development Management section but that section doesn't refer to provision of additional guidance]

- Clear guidance is required on how the various assessments referenced in the NPPF should be undertaken. Without clear guidance these will be open to significant challenge leading to delay in the adoption of local plans and also inconsistencies between authorities prejudicing effective joint working. As an interim measure and to avoid delay in the production of Local Plans the NPPF should retain all such existing

NPPF Consultation Questions & Responses

guidance.

- Existing guidance in many cases is well written e.g. PPS10 companion Guide and PPS25 companion guide. Concern that if guidance is written by bodies with a certain agenda then it may not be balanced. Would we be able to use the 'guidance' as evidence base for our plans or still have to do our own evidence anyway?
- Practice Guide for PPS25 is very useful in including real examples of how to resolve potential policy conflicts in a pragmatic way. Flood adaptation and risk management is changing so it is important to have up to date practice guidance.
- The NPPF makes no mention of local government evidence base and the importance of town centre health checks and indicators (the list of indicators has been removed) apart from in para 76 where it states *'local planning authorities should therefore undertake an assessment of the need to expand town centres to ensure a sufficient supply of suitable sites.'* PPS4 and its predecessor PPS6 held detailed information re how to undertake such assessment which is not included within the NPPF. It is also unclear whether the practice guidance would remain. Danger of all studies being undertaken differently raising challenges and a move towards 'planning by appeal'.
- The previous guidance on the production of Strategic Housing Land Availability Assessments and Strategic Housing Market Assessments has proved relatively robust.
- Guidance should be provided on the setting of local open space standards and energy strategies.
- In respect of other guidance it depends what weight the guidance is given in decision-making. This needs to be clarified.

Business and economic development

5a The 'planning for business' policies will encourage economic activity and give business the certainty and confidence to invest.

Do you: Strongly Agree/Agree/Neither Agree or Disagree/
Disagree/Strongly Disagree

5b Do you have comments? (Please begin with relevant paragraph number)

General Points

- Why is there no mention of the role and importance of tourism to local economies, economic growth and the viability and vitality of town centres?

NPPF Consultation Questions & Responses

- It is understood that the specific reason why offices are removed from the need for sequential approach and impact (ie town centre first) is to remove unnecessary burdens, greater flexibility and choice and a belief that other plan policies on ensuring sustainable and accessible locations are sufficient. However this narrows the role/ importance of town centres.
- Some of the proposed policies in the Planning for Prosperity section could have indirect impacts for delivery of waste management facilities: There is a risk that increased office development in out of centre locations (as a result of removing the need for sequential test for office space) will increase the competition for those sites which currently might be favoured by other (lower land value) employment uses. Thus pushing up land values and making other employment developments such as B2 uses including light industry and waste management, potentially less deliverable. This is particularly likely to be a problem in urban areas such as Brighton & Hove where there are relatively few locations suitable for industry.
- Para 75 – avoiding long term protection of employment land is likely to leave employment sites vulnerable to development pressures from other uses and reduce supply of employment land. This could cause problems for ensuring suitable sites for B2 uses including waste management, as explained in the response to the consultation on the Change of Use classes earlier this year.
- Para 75 - Is it a plan-led system or not? If a review has shown that an amount of land needs to be available/ protected for housing, employment/economic growth and other uses over the plan period why then weaken that approach by saying that applications for alternative uses on employment land in particular should be treated on their merits having regard to market signals and the relative need for different land uses?
- Para 75 - The NPPF details that “planning policies should avoid the long term protection of employment land or floorspace and applications for alternative uses of designated land or buildings should be treated on their merits having regard to market signals and the relative need for different land uses”. This statement is ambiguous and seriously undermines para 29 ‘Business Requirements’ in the ‘Plan Making’ section of the NPPF which requires local planning authorities to have a clear understanding of business needs and requires local authorities to compile an evidence base of requirements for land or floorspace for economic development. Such studies are expensive to commission and will be deemed worthless when referred to in planning applications and appeals by this adoption of this NPPF.
- Para 75 - Market signals over what time frame?

NPPF Consultation Questions & Responses

- Para 77 - Need to clarify the definition of leisure uses to which sequential approach to planning and impact assessment apply – does this for example include hotels?
- Para 78 - The NPPF would remove office uses from the existing sequential approach that favours town centre schemes over out-of-town schemes. The supporting impact assessment, states that this would allow developers a "wider choice over where they can seek planning permission for new office space". Brighton & Hove City Council have concerns that this would undermine their emerging Core Strategy policies which seek to ensure that office uses are located in the town centre in the first instance. There are concerns that the location of offices in out of centre locations are less sustainable choices and as such the sequential approach allows the consideration of town centre sites before edge or out of centre site are considered.

5c What market signals could be most useful in plan making and decisions, and how could such information be best used to inform decisions?

It is unclear how this would work in plan making since the time to adopt a plan is lengthy and plans are intended to span some 15 years and market signals tend to change more readily. Thus the plan may span a number of economic cycles. In the meantime the local authority has to deal with planning applications which reflect the current economic situation i.e. currently retail instead of office and industrial uses in the context of Brighton & Hove.

6a The town centre policies will enable communities to encourage retail, business and leisure development in the right locations and protect the vitality and viability of town centres.

Do you: ~~Strongly Agree/Agree/Neither Agree or Disagree/Disagree/Strongly Disagree~~

6b Do you have comments? (Please begin with relevant paragraph number)

General points

- No mention of local government evidence base and the importance of town centre health checks and indicators (the list of indicators has been removed) apart from in para 76 where it states '*local planning authorities should therefore undertake an assessment of the need to expand town centres to ensure a sufficient supply of suitable sites.*' PPS4 and its predecessor PPS6 held detailed information re how to undertake such assessment which is not included within the NPPF. It is also unclear whether the practice guidance would remain. Danger of all studies being undertaken differently.
- Town centre uses definition removed. No longer consider office use as a town centre use.

NPPF Consultation Questions & Responses

- Para 76 - Emphasis shifted from encouraging residential use above ground floor retail in PPS4 to now setting out policies to encourage residential development on appropriate sites – would be better to say mixed use retail and residential. It should be clear that residential at street level in retail centres is not normally appropriate.
- Para 76 - More explicit mention of retail and leisure needs being met in full and not compromised by limited site availability – this could further undermine town centres where need is identified but sites cannot be easily assembled.
- Para 76 - No longer the requirement for LDFs to “*set out policies for the phasing and release of allocated sites to ensure that those sites in preferred locations within centres are developed ahead of less central locations.*”
- Para 76 - Emphasis has shifted to allocate appropriate edge of centre sites and out of centre sites if town centre sites are not available. Without a need for an applicant to demonstrate the necessary infrastructure is in place this is likely to undermine the creation of sustainable communities.
- Para 77 - Welcome the increased clarity in this para. A sequential approach appears to apply to all sizes of retail and leisure uses not in an existing centre and not in accordance with an up to date development plan. The removal of a threshold is better in the context of Brighton & Hove where we have a lot of smaller units looking for permission in edge of centre locations.
- Para 78 - ‘*prefer applications for retail and leisure uses to be located in the town centre where practical*’ seems to weaken the town centre first approach. Suggest the removal of ‘*where practical*’ as no real definition as to what this means in the NPPF.
- Para 79 - Welcome the continued opportunity for LPA to set a local threshold for an impact assessment.
- Para 80 - The emphasis of the impact assessment appears to be on the local authority. Wording should be altered to make it clear that the onus is on the applicant to make the impact assessment.
- Para 80 - Unclear how planning policies could address the impact? Further explanation required.

Transport

[7a The policy on planning for transport takes the right approach.](#)

Do you: ~~Strongly Agree/Agree/Neither Agree or Disagree/Disagree/Strongly Disagree~~

7b Do you have comments? (Please begin with relevant paragraph number)

- General comments - Although it is acknowledged that this is a framework, there is insufficient clarity or definition in many of the statements made. No reference is made to the benefits of improving public realm or improving access to open spaces (including countryside, National Parks etc) through the planning process and decisions, although these can help support/regenerate economies. No reference at all is made to parking provision. No reference is made to motorcycles/powered two wheelers. As stated below, with reference to paragraph 82, intelligent transport systems can also assist in reducing carbon emissions and reducing congestion, but no reference is made to technology etc here.
- Para 82 - This paragraph does not really make any clear/specific point and is a combination of general statements. Each is worthy of fuller/summary description. Technologies can also assist in more efficient or better-informed travel (e.g. intelligent traffic signals or real-time bus information or smart cards) as well as less travel i.e. internet, video conferencing etc.
- Para 82 Weakened stance c.f. PPG13 which stated 'reduce the need to travel especially by private car'. Why say 'where reasonable' to do so support a pattern of development that facilitates the use of sustainable modes of transport?
- Para 83 - This paragraph should be strengthened or made less ambiguous. 'Where practical' - means what? Technically possible or affordable? Solutions should also be future-proofed to ensure they do not become obsolete and can also be maintained. 'Encouragement' – of whom? Developers and/or local authorities. 'Greenhouse gas emissions' are not necessarily the same as those emissions that are harmful to health, but the latter should still be prioritised and reduced.
- Para 84 - These headline bullet points make no reference to integration or safety in terms of transport policy. Having adopted the 5 national transport goals, and encouraged local authorities to develop their Local Transport Plans around them, these goals have not now been given similar or sufficient weight in this framework. Transport provision and general movement and levels of accessibility are fundamental to the delivery of all other policy objectives. Emphasis should also be made to providing accessibility, not just its promotion
- Para 85 - 'Viable' means what? Affordable or delivers benefits? Viable to whom? Transport services or routes e.g buses, are just as important as 'infrastructure' in supporting sustainable economic growth. Additional transport services can deliver greater choice and increase economic activity. The city suffers from a reduced weekend train service as a result of engineering works which reduces choice and can deter visitors from coming to the city and can therefore increase car

NPPF Consultation Questions & Responses

use and congestion, which affects economic growth. References to roadside facilities seem to be overemphasised here, especially under an 'economic growth' heading, when their primary function is referred to as 'safety and welfare'.

- Para 86 - The use of the term 'significant', when not defined, can lead to levels of ambiguity. For example, a significant impact could result from an 'insignificant amount' or low level of movement if it occurs in a sensitive location or environment. Alternatively, the cumulative effects of a number of developments with an 'insignificant amount' or low level of movement could become significant. This paragraph refers to local criteria. There are no formalised/adopted/agreed local (B&H) criteria to define 'significant'. However, the city council would intend to continue to refer to development thresholds/criteria that would require a TA or TS based on the DfT's current (2007) guidance.
- Para 86 – Define and clarify role of Transport Statement or Transport Assessment.
- Para 88 - Surely this should say minimise the distance travelled or reduce the number of (separate) journeys that need to be made. How can a development's location minimise the need to travel? If based on previous PPG13/town centre-focused/no out of town-based policies, it seems to have lost its definition or clarity. Use of words like 'integrated' or 'linked' for journeys or travel would be more helpful here. The use of sustainable transport can also be maximised by providing appropriate and additional services, facilities and routes.
- Para 89 - 2nd bullet - pedestrian and cycling facilities should also be integral to development design, as well as movement, as should public transport services as well as facilities. 3rd bullet – all conflicts should be minimised, but especially between traffic and vulnerable road users. Cyclist and pedestrian conflicts should be avoided through well-designed layouts.
- Para 90 - The requirement for Travel Plans is welcomed, but should not necessarily be restricted to developments generating significant movement. For example, a small extension of a large development may present the opportunity to introduce a Travel Plan for the whole development, and could help to manage the effects of the overall movement that it generates and therefore contribute towards the government's prioritised transport objectives.
- Para 90 - Define and clarify role of Travel Plan.
- Para 91 - See comments on paragraph 88 re: journey lengths. The principle here is the same as is inferred in paragraph 88, but is poorly worded there.

NPPF Consultation Questions & Responses

- Para 92 - 'Larger scale' means what? 'Walking distance' means what? This will vary for different age groups of school children. It will also require the provision of appropriate standards of, and convenient and attractive, routes.
- Para 93 - If this is a reference to parking standards, that word is missing. 'Residential and non-residential' = why not say all development? What is the inference here? 1st bullet – accessibility of the development to what? 3rd bullet - assuming this is about parking, why/how should existing levels of car ownership be taken into account when setting standards. 4th bullet - assuming this is about parking, how does parking provision i.e a space, have any bearing on the emission level of a vehicle that may use it?
- Para 93 - removes the maximum non-residential car parking standards for major developments, local standards can be set with regards to local circumstances and communities. Presumably this could mean that a neighbourhood plan could decide to take a more pro-car parking stance than the local plan? High-emission vehicles – does this mean cars?

Communications infrastructure

8a Policy on communications infrastructure is adequate to allow effective communications development and technological advances.

Do you: Strongly Agree/Agree/Neither Agree or Disagree/
Disagree/Strongly Disagree

8b Do you have comments? (Please begin with relevant paragraph number)

No comments

Minerals

9a The policies on minerals planning adopt the right approach.

Do you: Strongly Agree/Agree/**Neither Agree or Disagree**/
Disagree/Strongly Disagree

9b Do you have comments? (Please begin with relevant paragraph number)

- Brighton & Hove is an urban authority so there is no mineral extraction within the city boundary. However the council has an adopted Minerals Local Plan jointly with East Sussex County Council and is preparing a Waste and Minerals Core Strategy jointly with East Sussex County Council and the South Downs National Park Authority so the proposed policies are significant to the city on that basis.

NPPF Consultation Questions & Responses

- Para 101 - The change in approach regarding land banks is likely to give less certainty for the industry. In terms of finances 10 years is not very long for them. This may result in reduced supply of land-won aggregates and certainty about future supplies to support major growth.
- Para 102 - Refers to planning 'as far as is practical' outside of National Parks and AONB. This could be significant in meeting local needs for construction and infrastructure because much of the land-won reserves in East Sussex are within areas designated either as SDNP or AONB.

Housing

10a The policies on housing will enable communities to deliver a wide choice of high quality homes, in the right location, to meet local demand.

Do you: ~~Strongly Agree/Agree/Neither Agree or Disagree/Disagree/Strongly Disagree~~

10b Do you have comments? (Please begin with relevant paragraph number)

- Paras 107-109 – The proposed requirement to plan to meet housing requirements in full is a strong and unprecedented national policy requirement. National policy (PPS3) did not contain such an explicit requirement. Previously, the Regional Spatial Strategies provided targets for individual councils that were only partly reflective of their level of local demand/need. RSS targets began with national and regional population and housing projections, which were then converted into local council targets with reference to a local consideration of infrastructure and environmental constraints and opportunities as well as levels of housing need and demand.

As a result, the provision for some councils fell well below their actual needs (e.g. Brighton and Hove), whereas some other councils may have had to accommodate more growth than their indigenous needs required. This new requirement will pose a major sustainability challenge to those local authorities with significant development constraints (e.g. in terms of infrastructure and/or significant environmental constraints). Where such constraints affect the whole or majority of the housing market area (which is likely in parts of the South East region) it is not clear how plans will be dealt with.

By making the goal of meeting demand/need an explicit policy requirement on all councils, the likely expectation is a net increase in the level of housing growth nationally. At a local authority level other factors (e.g. infrastructure or environmental factors possibly only of a national policy significance) may continue to moderate what is provided if genuine sustainable development is to be achieved.

If this policy stance remains unchanged in the final framework, then it is most likely that plans will be 'judged' on what efforts have been made

NPPF Consultation Questions & Responses

to go as far as they realistically can in terms of meeting local housing requirements. If not and plans are found unsound this will undermine the core planning principle for planning to be genuinely plan led.

The approach set out in the draft NPPF is contrary to the 'localism approach' which indicates it is for local authorities in conjunction with neighbourhoods to determine how to set and decide upon local housing targets.

Para 109 bullet point 2 - PPS3 also requires a rolling five year supply of deliverable sites. The proposed new framework will require an additional 20% of deliverable sites to be demonstrated. At present, BHCC only has a 2.8 year supply of sites against SE Plan targets – largely because the market is not bringing forward otherwise available and suitable sites for development (due to factors such as availability of funding for development and availability of mortgages etc). Not having a five year supply of deliverable sites counts against the council at planning appeals. The new draft framework states that planning permission should be granted where the LPA cannot demonstrate a five year supply of sites; with no qualifications to this statement (as in PPS3). The additional 20% is an even more onerous requirement on local authorities and, unless the financial and development markets are ready to bring forward such land, sites will not necessarily be delivered. The guidance fails to recognise that housing delivery is as much a function of the market as it is of planning identifying suitable sites. The five year supply requirement is adequate in 'normal' economic conditions and there is no need for the additional 20% requirement.

- Para 109 bullet point 2 – Clarification is required in terms of calculating the additional 20%. Would this be 20% of the 5 year supply or a further 20% of the annual requirement multiplied by 5?
- Para 109 bullet point 3 - The current PPS3 requires specific sites for years 6-11 and, where possible for years 11-15. Broad locations were an option only for years 11-15 in PPS3. The proposed Framework is less restrictive in this respect which should make plan-making more flexible for the longer term aspects of the Plan and this is welcomed. However, this has to be balanced with the much more stringent requirements for the first 5 years (the additional 20% requirement which essentially means more potentially deliverable sites to be demonstrated throughout the plan period).
- Para 109 bullet point 4 - This is essentially the same as guidance in PPS3. It is not clear, however what 'compelling evidence' means.
- Para 109 bullet point 5 - The housing trajectory was also a requirement of PPS3. However, there is a contradiction in requiring a Housing Implementation Strategy to demonstrate only how market housing will meet targets. Housing targets are set to be met from

NPPF Consultation Questions & Responses

both the requirements for market and affordable housing development.

- Para 109 bullet point 7 – the reference to ‘*Where appropriate acquire properties under compulsory purchase powers*’. This is entirely unrealistic in the light of government cuts in public sector resources and spending.
- Para 111 - The proposals in the NPPF in relation to planning for a suitable housing mix are generally less restrictive than those in PPS3. The framework removes the need to set a plan wide target for affordable housing; removes site size thresholds for affordable housing; removes the national target for development of housing on previously developed land (which used to be 60% of housing to be on pdl) and, would appear to endorse (by implication) plans identifying and allocating sites for particular types of housing.
- General Points
 - There is no longer reference to targets for development on ‘previously developed land’ which is likely to give more flexibility on where new housing development could take place;
 - Little guidance on planning for affordable housing or other specific needs housing;
 - Practice guidance – will there be any to accompany this e.g. how to undertake studies regarding Local Housing Requirements and SHLAA’s etc to ensure consistency between local authorities.

Planning for schools

11a The policy on planning for schools takes the right approach.

Do you: ~~Strongly Agree/Agree/Neither Agree or Disagree/Disagree/Strongly Disagree~~

11b Do you have comments? (Please begin with relevant paragraph number)

Design

12a The policy on planning and design is appropriate and useful.

Do you: ~~Strongly Agree/Agree/Neither Agree or Disagree/Disagree/Strongly Disagree~~

12b Do you have comments or suggestions? (Please begin with relevant paragraph number)

- General Comments: It is noted that accessible design issues are covered in paragraph 125 of the Sustainable Communities section rather than under Design. It is felt that this issue has been inadequately addressed in

NPPF Consultation Questions & Responses

comparison with the more useful policy currently in PPS1.

- Paragraph 118 – it is disappointing that the reference in PPS1 to ‘promoting local distinctiveness’ has been omitted from this paragraph (and indeed from the section on Design as a whole) as this is a succinct, positive and well understood phrase. It also means that without it this paragraph comes across as unduly negative in its wording.
- Paras 116, 118, 121 - In addition there is unnecessary repetition of reference to innovation in design in paragraphs 116, 118 and 121 but limited mention of local context, thus unduly emphasising innovation at the expense of good contextual design. Not all sites demand a bold, innovative approach. Successful place-making often depends upon design that modestly and seamlessly completes gaps in the existing urban form.
- Para 123 – in the case of out door advertisements current PPG19 gives useful guidance on what is meant by “amenity” and “public safety” and in the absence of such guidance in the NPPF it is not clear how these terms are to be consistently interpreted and applied.

Green Belt

13a The policy on planning and the Green Belt gives a strong clear message on Green Belt protection.

Do you: ~~Strongly Agree/Agree/Neither Agree or Disagree/Disagree/Strongly Disagree~~

13b Have you comments to add? (Please begin with relevant paragraph number)

- This section continues existing policy. In view that other countryside is no longer to be protected for its own sake it is suggested the whole approach be reconsidered to consider on a National basis where the best agricultural land lies to serve the nation in case of emergencies, where the most diverse areas lie etc. The Green Belt was part of a wider policy which included the development of new and expanded towns outside the Green Belt to relieve development pressure inside it (and to limit the continuous spread/urban sprawl of large Metropolitan cities). In view of the housing needs a national approach with full involvement from Local Planning Authorities may be required to consider the general disparities between the north and the south, the potential for additional ‘new’ towns etc. Without a renewed approach, the lack of protection in the draft NPPF of the countryside for its own sake (which maybe of higher agricultural grade than land within the Green Belt) is likely to lead to the same issues arising eg urban sprawl, corridor development, towns merging to form conurbations and conurbations merging into one.

Climate change, flooding and coastal change

14a The policy relating to climate change takes the right approach.

Do you: ~~Strongly Agree/Agree/Neither Agree or Disagree/Disagree~~/**Strongly Disagree**

14b Do you have comments? (Please begin with relevant paragraph number)

- General comment - This policy is too carbon-centric and not flexible enough to accommodate the complexities of tackling climate change in development (NB there are other gases linked to climate change). It should be amended to include important, long-term resource efficiency issues in buildings such as water and materials rather than just focusing almost exclusively on the production of renewable energy. If this is not amended then it should be clear that local plans are able to take a broader view and apply policies and targets as appropriate.
- Para 148 - equates climate change to something that can be tackled via the 'transition to a low carbon economy'. While this is certainly an important aspect of tackling climate change it is unclear why there should be such a bias towards the role of the production of renewable energy in the light of the limitations of what seems like a 'Merton Rule' approach which have been criticised by experts and local authorities alike as not effective enough in delivering sustainable buildings. It is now widely accepted that fabric-efficient buildings are the most cost-effective, sustainable long-term option. Priority setting, or at least a more qualified reference to how much support for production of renewable energy is expected within a hierarchy, would be helpful in this instance. Furthermore, in previous policy documents developers have consistently requested flexibility when it comes to combining sustainability features within a development. Undue bias towards renewable energy can compromise such flexibility.
- Para 150 - fails to consider wider, critical, long-term resource efficiency issues in new development such as water and materials as well as food growing and other innovative ways of reducing emissions. One can only assume that as part of the current text these would come under the broad reference made to 'local requirement for a building's sustainability' (second bullet point). It would perhaps be useful to highlight these issues more clearly as being addressed via local requirements for sustainable buildings.
- Para 151 - there is an inherent contradiction in the wording of this paragraph. If a building is 'well-designed' it cannot at the same time be 'incompatible with an existing townscape'. As the Framework itself makes clear in the section on 'Design' (notably paragraphs 116 and 121), good design should respond positively to its local context.
- General point - The Practice Guide for PPS25 is very useful in including real examples of how to resolve potential policy conflicts in a pragmatic

NPPF Consultation Questions & Responses

way. Flood adaptation and risk management is changing so it is important to have up to date practice guidance.

14c The policy on renewable energy will support the delivery of renewable and low carbon energy.

Do you: ~~Strongly Agree/Agree/Neither Agree or Disagree/Disagree/Strongly Disagree~~

14d Do you have comments? (Please begin with relevant paragraph number)

- Para 152 – The resource implications of this on LPAs should be taken into account in view of the current public sector cuts. Consideration should be given to the preparation of a detailed national energy study which can set out the best locations for different types of renewable and low-carbon sources in ensure cost effective research.
- Para 153 – States that authorities should not require demonstration of need for renewable or low-carbon energy, and recognise that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions. Would this also apply to energy from waste proposals, such as CHP which is fuelled by waste products? There could be a conflict between local planning policies requiring demonstration of need for waste management capacity versus not-needing to demonstrate need for energy production.

14e The draft Framework sets out clear and workable proposals for plan-making and development management for renewable and low carbon energy, including the test for developments proposed outside of opportunity areas identified by local authorities

Do you: Strongly Agree/Agree/Neither Agree or Disagree/Disagree/Strongly Disagree

14f Do you have comments? (Please begin with relevant paragraph number)

14g The policy on flooding and coastal change provides the right level of protection.

Do you: Strongly Agree/Agree/Neither Agree or Disagree/Disagree/Strongly Disagree

14h Do you have comments? (Please begin with relevant paragraph number)

- Para 159 - would it not also be useful to reference Shoreline Management Plans not just marine plans and to include the section from the PPS25 Supplement around coastal change and development outside CCMA's:

NPPF Consultation Questions & Responses

The Government's aim is to ensure that our coastal communities continue to prosper and adapt to coastal change. This means planning should:

- ensure that policies and decisions in coastal areas are based on an understanding of coastal change over time
 - prevent new development from being put at risk from coastal change by:
 - (i) avoiding inappropriate development in areas that are vulnerable to coastal change or any development that adds to the impacts of physical changes to the coast, and
 - (ii) directing development away from areas vulnerable to coastal change
 - ensure that the risk to development which is, exceptionally, necessary in coastal change areas because it requires a coastal location and provides substantial economic and social benefits to communities, is managed over its planned lifetime, and
 - ensure that plans are in place to secure the long term sustainability of coastal areas.
- Para 60 - Should this section therefore clarify that Shoreline Management Plans provide the starting point for evidence for considering if an area is likely to be affected by physical changes to the coast that require particular identification as a Coastal Change Management Area.

Natural and local environment

15a Policy relating to the natural and local environment provides the appropriate framework to protect and enhance the environment.

Do you: ~~Strongly Agree/Agree/Neither Agree or Disagree/Disagree~~**Strongly Disagree**

15b Do you have comments? (Please begin with relevant paragraph number)

The questionnaire does not invite comment in respect of the "Sustainable communities" section which includes the paragraphs relating to open space. For this reason the comments detailed here also include those made in respect of open space and also sport and recreational facilities.

- General comment - it is important the NPPF clearly states what it means by "Leisure", "Sport" and "Recreational" developments/facilities. For example do hotels fall within the category of "Leisure" (if not how are they addressed in NPPF) and do bingo halls etc fall within the category of "Recreational" (if they do then how does this relate to open space and sport). When undertaking this regard will need to be given to the proposed amendments to the use classes order.

NPPF Consultation Questions & Responses

- This council strongly urges the adoption of a ‘presumption in favour of protecting urban open space’. It is unsustainable to assume a decreasing supply of urban open space can meet the needs of an increasing population. This applies to both public and private open space, in view that there is no statutory duty requiring a local authority to provide open space (except cemeteries and allotments) and the increasing reliance on the private sector due to the public sector austerity measures. The NPPF should make it clear development of urban open space and also major countryside sites should only be considered through the plan making process (either Local Plan or Neighbourhood Plan). Such an approach will be consistent with the core planning principle of ensuring planning is genuinely plan led and takes into account localism by ensuring Neighbourhoods have genuine power to decide over the future of their open space, and prevents unsustainable urban sprawl.
- Para 19 - fourth bullet: This council welcomes the reference to not just existing but also ‘potential’ (environmental) quality regardless of its previous or existing use’ when considering the future use of land. In view of the demand for housing and other forms of development the pressure to lose land not currently built upon is significant. Whilst such loss may on balance be necessary it is essential the open space offer of the space is assessed first. However paragraphs 128 to 132 do not support this with sufficient measures to offer appropriate protection. Where loss of open space/natural environment is required this should be taken through the plan led system so that the land with the lowest open space and environmental offer is lost in preference to that with a higher offer. Approval of individual planning applications outside of such a planned approach will result in ad hoc decisions unless an applicant is required to undertake an independent assessment.
- Para 128 - This paragraph suffers from being condensed too far. There is insufficient recognition of the benefits to be obtained from open space (facilitates exercise, supports social inclusion and educational attainment, helps reduce crime, improves health and well being/reduces stress and depression, they act as heat sinks etc). This is more important in view of the emphasis on the provision of housing thus if the benefits of open space are down played their value may not be fully appreciated leading to their loss. The word “can” should be removed from the first sentence because in respect of the types of open space and facilities referenced they will make an important contribution. It is unclear what is meant by “where activities are made easier” it is recommended this be amended to read “where the opportunities to take part in a range of outdoor and sporting activities are made easier”.

The paragraph requires planning policies to identify specific needs and deficits or surpluses in quantity and quality of open space and facilities. It then makes an assumption that this “assessment” can be used to set locally derived standards. Whilst it is welcomed that the NPPF does

NPPF Consultation Questions & Responses

not place a requirement on the local planning authority to undertake an assessment, guidance should be provided to advise both the local authority and developers on what would form a robust assessment. Clear guidance should also be provided on producing robust locally derived standards for the provision of open space, sports and recreational facilities in order to avoid challenges and delay in the plan making and decision making process.

It is important to recognise the main influence planning has over open space relates to quantity and that it has little influence over the quality of open space (planning permission is not required for changes in the quality of open space).

It is not clear what is meant by planning policies should not only protect but also enhance rights of way and access especially when included in this section rather than the transport section. The designation of rights of way in relation fall within separate legislation and not directly controlled by planning. Whilst planning can be expected to give due regard to protecting these elements and seek enhancements when appropriate it is debatable whether planning policies have the necessary power to protect and enhance rights of way and access.

- Para 129, first sentence - In view of the difficulties in finding level open space of an appropriate size it is recommended the wording “including” should be replaced with “especially”.
- Para 129 - Weakens the current position and therefore protection by virtue of “or” at the end of the first bullet and then the addition of the second bullet. This council raises an objection and recommends the deletion of the second bullet or as a minimum the replacement of “or” with “and”. In view of the additional weight applied by the NPPF to economic and housing growth and a need not to prevent development, the inclusion of “or” before this bullet will lead to the loss of essential urban open space. This is clearly unsustainable when not only existing open space but additional open space will be required to meet the needs of the increasing population.
- Para 130 - the ability to designate land as “Local Green Space” is welcomed subject to clarification on its status versus other types of open space including that which is essential to meeting standards including public parks etc which may form “extensive tracts of land”. It is unclear how this sits with the provisions in para 129 and whether it should only comprise land considered “surplus to requirements” to avoid confusion over the status of respective open space. Alternatively, in view of the need for respective policy to be consistent with policy for Green Belt it should be clearer if the designation is only to be applied to land outside the built up area.
- Compared to PPS 9 the draft NPPF is equivocal on biodiversity enhancement – e.g. “providing net gains in biodiversity, where

NPPF Consultation Questions & Responses

possible” (para 164) “opportunities to incorporate biodiversity in and around developments should be encouraged” (para 169 3rd bullet point)

- this phrasing is weaker than e.g. PPS 9 para 14

- To expand on this, Paragraph 1 (ii) of PPS9 says “Plan policies and planning decisions should aim to maintain, and enhance, restore or add to biodiversity and geological conservation interests”. In the new draft NPPF, this underlying objective is replaced by paragraph 164 (and its second bullet): “the planning system should aim to conserve and enhance the natural and local environment by... minimising impacts on biodiversity and providing net gains in biodiversity where possible” From “*maintain and enhance, restore or add to*” to “*minimise impacts and provide net gains where possible*” seems a backward step.
- Para 167 and 168 - Welcome the intention to plan positively for “the creation, protection, enhancement and management of networks of biodiversity and green infrastructure” (para 167) and to “identify and map components of the local ecological networks, including: international, national and local sites of importance for biodiversity, and areas identified by local partnerships for habitat restoration or creation” (para 168)
- Para 168, 3rd bullet point - Welcome the integration of national and local Biodiversity Action Plan targets.
- Para 171 to 175 – Whilst the heading to these paragraphs includes ‘land stability’ this is not referenced within these paragraphs neither is link provided to para 120, 6th bullet point, which details ‘tip or quarry slope stability nor para 164, 3rd bullet point, which refers to avoiding unacceptable risks from land instability. In view that the NPPF is to replace PPG 14 “Development on Unstable Land” which is a 28 page document it is felt the proposed guidance will fail to address land instability adequately. PPG14 para’s 21 to 23, 34, 35, 37, 40 to 42, 45 to 48 and its Appendix 2 para A2 provided clear guidance to the extent of regard that should be given to land instability by the planning system.

Historic environment

16a This policy provides the right level of protection for heritage assets.

Do you: ~~Strongly Agree/Agree/Neither Agree or Disagree/Disagree/Strongly Disagree~~

16b Do you have comments? (Please begin with relevant paragraph number)

- General Comments - The draft does not recognise the positive role that the historic environment plays in contributing to the NPPF’s aim of sustainable development. Historic areas themselves are often inherently

NPPF Consultation Questions & Responses

sustainable communities with a good mix of uses and the re-use of buildings.

- General Comments - The draft wholly fails to address the issue of heritage assets and climate change, as currently dealt with by policy HE1 of PPS5. The inherent sustainability of keeping heritage assets in use is a crucial and fundamental issue that has been overlooked (except that in broad terms paragraph 19 on Core Planning Principles refers very generally to the conversion of existing buildings). The PPS5 guidance on adapting historic assets to mitigate climate change while conserving their significance (which is proving increasingly useful) has been omitted entirely. It is noted that the Impact Assessment states that part of policy HE1 is incorporated elsewhere in the Framework but the only related reference appears to be in paragraph 151 of the section on Climate Change, flooding and Coastal Change. However this paragraph is very vaguely worded compared to HE1 and makes no mention of the concept of significance. It is not even clear from the wording whether this policy could be applied to retrofitting of renewable energy measures.
- General Comments - The draft also fails to emphasise the importance of finding viable new uses for vacant and/or neglected heritage assets.
- General Comments - The section, and indeed the Framework as a whole, fails to address the whole subject of conservation through regeneration. The crucial link between historic places and tourism receives no mention at all.
- General Comments - The important role of the historic environment in place-making has not been adequately covered.
- General Comments - There is an absence of specific policy on how to deal with proposals where moderate or minor harm to heritage assets would arise (as per current policy HE9.4 of PPS5).
- General Comments - It is noted that the Impact Assessment states that policy HE4 is incorporated elsewhere in the Framework but the only related reference appears to be in paragraph 64 of the section on Development Management. However this paragraph makes no specific mention of conservation of the historic environment as a potential justification for removing permitted development rights and appears to be worded in such a manner as to discourage LPAs from using Article 4 Directions. This does not fit well with the Localism agenda. In Brighton & Hove Article 4 Directions have often been sought by, and supported by, local communities as a means on conserving their historic areas. Article 4 Directions can therefore be a positive tool in helping to create sustainable communities.
- Para 178 – the status of a document that would be “a strategy for the conservation and enjoyment of the historic environment” is unclear. How would it relate to the Local Plan?

NPPF Consultation Questions & Responses

- Para 179 – this is wholly unnecessary and very negative. The reasoning behind this is best left in the existing and up-to-date English Heritage guidance on Conservation Area designation.
- Para 182 - is in the wrong place. It should follow paragraph 184.
- Para 183 - greatly devalues the Government's commitment to the historic environment. The 'presumption in favour' of the conservation (or previously preservation) of heritage assets has been a long-standing principle in historic environment policy through Circular 8/87, PPG15 and latterly PPS5. To drop this presumption now and instead to simply require "considerable importance and weight" to be given to their conservation would undoubtedly seriously weaken the level of protection available to all such assets. This surely cannot be the Government's intention.
- Para 184 - has lost the additional and very useful supporting wording that is currently in policy HE9.3 of PPS5. This makes clear that the onus is on the developer to make the case for loss of the historic asset.
- Para 185 - is bland and unhelpful and does not give any indication of what weight should be applied to the various considerations. The policy lacks the nuance of PPS5.
- Para 187 – the clarification of this, which was omitted from PPS5 itself, is very welcome.
- Para 190 - is also bland and unhelpful without the accompanying policy criteria currently set out in policy HE11 of PPS5.

Impact Assessment

17a Is the impact assessment a fair and reasonable representation of the costs, benefits and impacts of introducing the Framework? (OR – answer questionnaire B: Impact assessment questions)

See Appendix A

Gypsy and Travellers – Additional question emailed from CLG

Do you have views on the consistency of the draft Framework with the draft planning policy for traveller sites, or any other comments about the Government's plans to incorporate planning policy on traveller sites into the final National Planning Policy Framework?

As the intention is to streamline guidance and incorporate all guidance currently in PPS's into one framework then it makes sense to incorporate the new PPS on Traveller Sites into the final version of the NPPF.

NPPF Consultation Questions & Responses

However, in terms of 'consistency', the proposed policy framework for Gypsies and Travellers is much more 'in depth' and detailed in terms of setting out guidance and specific policies (Policies A-H) in relation to Evidence Base, Plan Making, Development Management and Determining Planning Applications compared to the broader brush format used in relation to the topics dealt with under the draft NPPF.

In this respect, the two are not consistent.

Additional Topics not covered by consultation questions

Sustainable Communities

- Para 126 - What about health facilities being mentioned in reference to community facilities.
- Para 129 - the guidance should say more about the playing fields directive and the importance of safeguarding them in view of a playing fields size and contour requirements.
- Should include definition of open space; current and projected demand requirements and all the functions that open space can perform should be included in this section as well as replacement of 'or' with 'and'?
- Should include regard to the need to replace open space to be lost.

Planning for Places

- Para 150 – this does not provide sufficient clarity as to whether justified local circumstances allows a local authority to go beyond Government policy and nationally described standards.
- The draft NPPF fails to say sufficient in terms of importance of sustainable building design - reducing ecological footprint etc.

Waste policies

- Para 7 - The draft NPPF proposes to address waste policy separately, for the time being retaining national policy as set out in PPS10 and publishing revised policy alongside the National Waste Management Plan for England [anticipated in Spring 2012]. It is unclear what the National Waste Management Plan will look like, it could potentially include a portfolio of documents including the NPPF, Waste Strategy 2007 (as reviewed), any relevant National Policy Statements (for example the energy ones), all Waste Development Frameworks in the country, plus some policies from the Environment Agency which will still be needed to fill the remaining gaps. This seems contradictory to the emphasis on having a streamlined approach to national policies.

NPPF Consultation Questions & Responses

There are pros and cons of this approach. It is assumed that the general policies in the NPPF will also apply to waste management developments and supersede PPS10 on general issues like design.

- There is merit in incorporating minerals policy and waste policy into the NPPF alongside more mainstream planning policies, particularly because the issues related to waste and minerals planning are increasingly inter-related with other issues such as energy production and economic growth. Having waste policies in the same document as those topics will help to realise opportunities for a more joined up and sustainable approach. Nonetheless PPS10 is a robust document (albeit with some obsolete sections which refer to the RSS) and its retention for the time being is welcomed.
- Also in the section Planning for Prosperity some of the proposed policies could have indirect impacts for delivery of waste management facilities
- There is a risk that increased office development in out of centre locations (as a result of removing the need for sequential test for office space) will increase the competition for those sites which currently might be favoured by other (lower land value) employment uses. Thus pushing up land values and making other employment developments such as B2 uses including light industry and waste management, potentially less deliverable. This is particularly likely to be a problem in urban areas such as Brighton & Hove where there are relatively few locations suitable for industry.
- Para 75 – avoiding long term protection of employment land is likely to leave employment sites vulnerable to development pressures from other uses and reduce supply of employment land. This could cause problems for ensuring suitable sites for B2 uses including waste management, as explained in the response to the consultation on the Change of Use classes earlier this year.

Enforcement

- The Development Management section (para's 53-70) contains no reference to enforcement. In view that the NPPF will replace Planning Policy Guidance 18 which relates entirely to 'Enforcing Planning Control' and enforcement serves a positive function within the planning system it is considered the NPPF should be amended to appropriately reflect the enforcement of planning legislation.

Other issues

- It is important to clarify whether the national planning document entitled "The Planning System: General Principles" is to be retained. If it is not then it is recommended clarity be provided in respect of private interests, material considerations and the need for development to

NPPF Consultation Questions & Responses

protect the public interest.

- In view that the NPPF will replace PPG 23 and 24 it is considered greater guidance and clarity should be provided in respect of noise and pollution. It is important regard is given to these elements early in the design stages and appropriately taken into account through planning, In addition to this the NPPF fails to reflect all elements of pollution and nuisance such as radiation, vibration, light, dirt, heat or reflect that they include noise.