



# PINS NOTE 08/2018r4

To: All Inspectors, All Examining Inspectors, All Casework Managers

Relevancy: Planning and Enforcement casework, Local Plans, National Infrastructure (all England only)

Date of Issue: **24 July 2018**

Review Date: **24 October 2018**

Updated: **24 September 2018** to refer to further additions and updates to the PPG in support of the revised Framework (see Para 38) and links to the archived versions where appropriate (see Para 22).

## Revised National Planning Policy Framework

1. On **24 July 2018** the Government published the final version of its revised National Planning Policy Framework (NPPF). The revised Framework sets out the Government's planning policies for England and how they should be applied.
2. Planning decisions must be determined in accordance with the development plan unless material considerations indicate otherwise.<sup>1</sup> National policy may be one such consideration.
3. **Annex 1** of the revised Framework sets out the implementation arrangements for applying the policies contained within. Policies within the new Framework are material considerations which should be taken into account for decision-making **from its day of publication**.
4. However, in accordance with **Paragraph 213** of the revised Framework, existing plan policies should not be considered out-of-date simply because they were adopted prior to the publication of the revised Framework. Weight should be given to them according to their degree of consistency with the revised Framework (the closer the policies in the plan to the policies in the revised Framework, the greater the weight that can be given).

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<sup>1</sup> Section 38(6) of the Planning and Compulsory Purchase Act 2004 (as amended)

5. In accordance with **Paragraph 214**, for plan examinations, the policies in the previous Framework will apply for the purpose of examining plans where the plan is submitted on or before **24 January 2019** (6 months from the date of publication of the new Framework).

### **Action**

6. Inspectors should ensure they familiarise themselves with the content of the revised Framework, and the accompanying [Planning Practice Guidance](#) which is in the process of being updated, as soon as possible.

### **Appeals casework (Planning Appeals and Enforcement Appeals with a Ground (a))**

7. It is anticipated that for the majority of non-HAS/CAS cases, for a time following its publication, the views of the appeal parties on the bearing the revised Framework will have on their case will need to be sought.
8. Where the file is not yet with the Inspector, Case Officers will proactively seek the views of the parties either by allowing an additional opportunity to comment, or by extending the deadline for submissions. This will mean that, for the majority of cases, the views of the parties will already have been received when the file reaches the Inspector. The protocol for Planning Casework, and copies of the letter templates that will be used, may be found at Annex A. For Enforcement appeals, which do not require the appellant to submit their full statement of case at the start of the appeal, it will be possible in many cases for the parties to make submissions on the relevance of the revised Framework during the normal course of the appeal timetable, at the statement stage, with the deadline for submission being extended where necessary.
9. Where the file has reached the Inspector, it will be for the Inspector to determine the action to be taken, applying the usual natural justice approach. It is expected that this will be to seek the comments of the principal parties in the vast majority of cases. Where it is necessary to write to the parties to invite comments, this should be arranged through the Case Officer.
10. For Hearings or Inquiries that are shortly to open, the parties may be able to address matters arising from the publication of the revised NPPF, at the event, orally. If there is sufficient time, Inspectors may wish to highlight this to the parties via the Case Officer. Alternatively Inspectors may seek to invite written comments on the bearing on the case of the revised Framework where there is a suitable period in which to receive these.
11. Where the revised Framework has been published immediately before, or during, a Hearing or Inquiry, Inspectors may receive requests for adjournments. Applying the usual natural justice

approach, Inspectors will need to determine whether such a request is justified, ensuring that the views of each of the principal parties on such an adjournment are considered (and bearing in mind that an adjournment may result in a lengthy delay to a final determination). In most cases, it should be possible for matters arising to be dealt with orally, and/or through an exchange of written representations, following the event.

12. Where, exceptionally, it is considered necessary to adjourn an event, Inspectors should inform their Case Officer immediately. Where such an adjournment will leave gaps in their chart which their Case Officer cannot fill, Inspectors should contact XXXX who may have work available.
13. Where a Hearing or Inquiry has closed, it is not anticipated that there will be a need to reopen the event and, where it is appropriate to seek comments on the relevance of the revised Framework to the case, this should be done in writing.
14. Where decisions are awaiting despatch, Case Officers have been advised to contact Inspectors before issuing decisions to confirm whether it is necessary to seek the views of the parties.
15. It is important that any comments received outside the normal appeal timetable have been made available to the other principal parties. In most cases, this will be for information only but, in certain limited cases, it made be necessary to seek comments on the other party(s)' submissions. In such circumstances, this should be arranged through the Case Officer.
16. Where additional time is needed to deal with comments received from the parties, Inspectors should ensure that they contact their Case Officer/XXXX as soon as possible to discuss.
17. For **HAS/CAS appeals**, Inspectors will need to consider, on a case by case basis, whether it is necessary to seek comments from the parties (this is expected to rarely be required).
18. In the event that parties (particularly third parties) submit unsolicited (late) representations on the basis that the content of the revised Framework has a bearing on the case, subject to being satisfied that the suggestion is reasonable, Inspectors are advised to accept them and to provide an opportunity for other parties to the appeal to comment.
19. It is unlikely that third parties will need to be directly approached for comments.

### **Recovered Appeals and Call-ins**

20. Where the case is still with the Inspector, PINS will be responsible for seeking any further comments from the parties. Once the Inspector's Report has been sent to the National Planning Casework

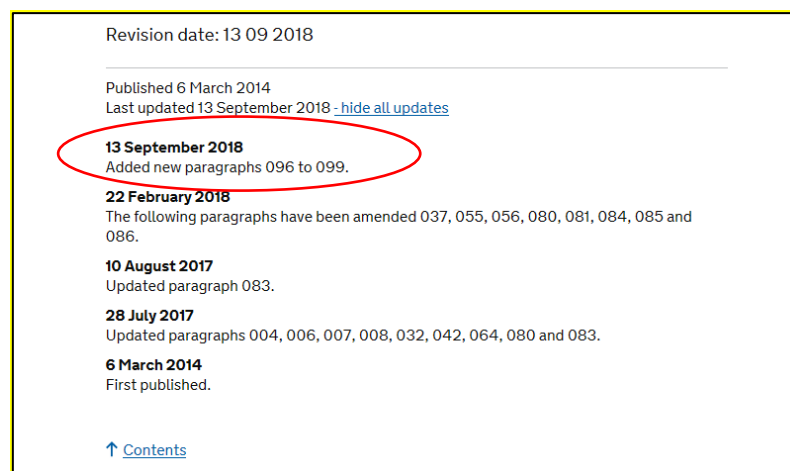
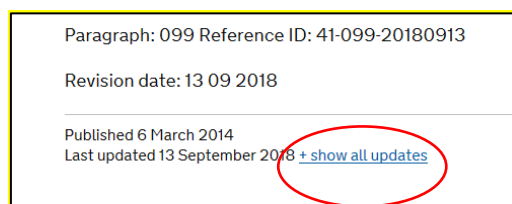
Unit, they will be responsible for seeking any further comments deemed necessary.

## Local Plan Examinations

21. For plan examinations, transitional arrangements within the new Framework<sup>2</sup> mean that the **policies in the previous Framework** will apply where the plan is submitted for examination on or before **24 January 2019** (6 months following publication of the new Framework).
22. Previous versions of Planning Practice Guidance (PPG) will continue to apply to Local Plans during this transition period in respect of applying policies in the 2012 Framework. PPG chapters on Viability and Housing and economic development needs assessments which have been updated to reflect the Revised Framework contain links to the archived previous guidance.

[Viability](#)  
[Housing and economic development needs assessments](#)

To see what has been updated within a chapter, scroll to the bottom of the page and click on the link to 'show all updates'



See PINS Note 11/2018 for details of the latest update to the PPG.

23. For plan examinations that fall within the arrangements set out in **Paragraph 214**, it is not considered necessary for Inspectors to ask LPAs to consider the implications of the revised Framework.

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<sup>2</sup> Paragraph 214

24. Nonetheless there may be circumstances where LPAs wish to argue a case for taking into account aspects of the revised NPPF. In particular LPAs may wish to embrace the new local housing need assessment. In all such circumstances, Inspectors will need to consider the arguments put forward and adjudicate accordingly, though there will need to be very clearly stated strong reasons for departing from the transitional provisions set out within the new Framework.
25. Where LPAs do seek to use the new standard method for calculating housing need, they would need to show that this is sufficient against the tests in the existing NPPF in respect of demonstrating that they are meeting full objectively assessed needs, so far as possible (Para 47). Additionally, the existing PPG advises that:

*"There is no one methodological approach or use of a particular dataset(s) that will provide a definitive assessment of development need. But the use of this standard methodology set out in this guidance is strongly recommended because it will ensure that the assessment findings are transparently prepared. Local planning authorities may consider departing from the methodology, but they should explain why their particular local circumstances have led them to adopt a different approach where this is the case. The assessment should be thorough but proportionate, building where possible on existing information sources outlined within the guidance."*

### **Community Infrastructure Levy (CIL) Examinations**

26. Transitional Provisions do not apply to CIL Examinations. The Revised Framework and PPG (the Viability chapter of the PPG has been updated to reflect the Revised Framework) will therefore apply as considerations to current examinations.
27. For current examinations:
- **Initial preparation stage:** Inspectors should ask the Council for its views on the implications for the examination of the Revised Framework and updated PPG and will need to consider how to proceed with the examination in the light of the response (potentially also seeking the views of other examination participants).
  - **Hearings pending or underway:** Inspectors should ask all parties for their views on the implications for the examination of the Revised Framework and updated PPG. If feasible, Inspectors should alert the parties beforehand that their views will be sought. Inspectors will need to consider how to proceed with the examination in the light of the response (potentially also seeking the views of other examination participants).
  - **Post-hearing stage:** Inspectors should ask the Council for its views on the implications for the examination of the Revised Framework and updated PPG and will need to

consider how to proceed with the examination in the light of the response (potentially also seeking the views of other examination participants).

28. Where advice on the appropriate way to proceed is required, Inspectors should seek this from their SGL/mentor, XXXX, or XXXX.

### **National Infrastructure**

29. The NPPF is important and relevant in National Infrastructure work but where there is a designated National Policy Statement (NPS) this will take precedence unless the NPS itself refers to the NPPF. Unless any specific changes within the revised Framework are a significant matter in the current examination then it will not be necessary to revisit matters in the examination, but if you have a hearing planned or written questions being issued then it may be helpful to include a reference to the revised Framework in general terms.

### **Background**

30. MHCLG announced the publication of the revised National Planning Policy Framework in a [press release](#) on **24 July 2018**.

31. It announced that "Building attractive and better-designed homes in areas where they are needed is at the centre of new planning rules published by Secretary of State Rt Hon James Brokenshire MP today"

"The new rules will also make it easier for councils to challenge poor quality and unattractive development, and give communities a greater voice about how developments should look and feel."

"The revised National Planning Policy Framework follows a public consultation launched by the Prime Minister earlier this year to provide a comprehensive approach for planners, developers and councils to build more homes, more quickly and in the places where people want to live."

32. The revised Framework is described as focusing on
- promoting high quality design of new homes and places
  - stronger protection for the environment
  - building the right number of homes in the right places
  - greater responsibility and accountability for housing delivery from councils and developers.
33. Secretary of State for Communities, Rt Hon James Brokenshire MP said:

"Fundamental to building the homes our country needs is ensuring that our planning system is fit for the future."

"This revised planning framework sets out our vision of a planning system that delivers the homes we need. I am clear that quantity must never compromise the quality of what is built, and this is reflected in the new rules."

"We have listened to the tens of thousands of people who told us their views, making this a shared strategy for development in England."

34. The revised Framework includes 85 of the proposals set out in the [housing white paper](#) and the Budget.

### **Pre-existing Written Ministerial Statements (WMS)**

35. The Revised Framework includes changes to planning policy implemented through Written Ministerial Statements (WMS) since publication of the first Framework in 2012. MHCLG has confirmed that, in basic terms, the Revised NPPF is now the Government's statement of national planning policy, and pre-existing WMS should be disregarded<sup>3</sup> (WMSs are not things that are formally replaced or cancelled).
36. Under the transitional arrangements set out within the Revised NPPF, the policies in the previous Framework will apply where the plan is submitted for examination on or before **24 January 2019**. It will therefore be necessary for Inspectors to have regard to the pre-existing WMS during this period.
37. Unless indicated otherwise (for example through revised Planning Practice Guidance) any differences between the wording of the WMS and policies within the Revised Framework should be taken as intentional.
38. Alongside the Revised Framework, the Government has published [its response to the consultation](#) on the draft revised National Planning Policy Framework and the [Housing Delivery Test measurement rulebook](#), along with updated Planning Practice Guidance on:

- [Viability](#)
- [Housing need assessment](#)<sup>4</sup>
- [Housing and economic land availability assessment](#)
- [Local Plans](#)
- [Neighbourhood Planning](#)

along with new guidance dealing with:

- [Build to rent](#)
- [Plan-making](#)

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<sup>3</sup> The one exception is the [recent WMS on shale gas](#).

<sup>4</sup> Renamed from Housing and economic development needs assessments

39. PINS Notes 01/2017, 11/2017, and 03/2018 will be cancelled.

### **Contacts for further information**

40. Please contact XXXX if you have any general queries on this Note.
41. In the first instance please contact your SGL or Local Plans mentor for advice on specific appeal and local plan casework, as appropriate. If necessary, queries may be escalated further for a GM view (SGLs/Local Plans mentors should contact XXXX to arrange in those circumstances). Non-salaried Inspectors should approach XXXX with any queries in the first instance, on which XXXX will liaise with XXXX.



## **Revised National Planning Policy Framework ('the Framework')**

### **Non-HAS/CAS appeals**

Validation officers/case officers should refer to the table below and take the action described according to the stage the appeal has reached on the date the revised Framework comes into force.

Click on the relevant NPPF letter from the table below and copy and paste the text into a 211B General letter.

**IMPORTANT:** Validation Officers/Case Officers should ensure that a file comment is recorded to note that appropriate Framework action has been taken.

<b>Stage of appeal on date amendments to the NPPF comes into force</b>	<b>Action to be taken</b>
Appeal received but not yet validated	<p>VO to change case officer name in Horizon to the <b>Deployment Officer</b>.</p> <p>VO to send the <b>NPPF1</b> at the same time as the Validation letter. The NPPF1 letter gives the appellant an opportunity to comment on any change in position brought about due to amendments to the Framework.</p> <p>A copy of the NPPF1 letter sent to appellant should be sent to the LPA for their information.</p>
Appeal at National List stage	<p>The case officer name in Horizon should remain as <b>Deployment Officer</b>.</p> <p>to send the <b>NPPF1 letter</b> to the appellant. The NPPF1 letter gives the appellant an opportunity to comment on any change in position brought about due to amendments to the Framework.</p> <p>A copy of the <b>NPPF1</b> letter sent to appellant should be sent to the LPA for their information only.</p>

Appeals allocated to Case Officers ready to be started or appeals started which are within 3 weeks of the start date	<p>CO to change case officer name in Horizon into their name.</p> <p>The CO to send the <b>NPPF1 letter</b> to the appellant. The <b>NPPF1 letter</b> gives the appellant an opportunity to comment on any change in position brought about due to amendments to the Framework.</p> <p>A copy of the <b>NPPF1 letter</b> sent to appellant should be sent to the LPA for their information only.</p>
Appeals started and are more than 3 weeks from the start date and LPA statement not yet received	<p>The CO to send the <b>NPPF1 letter</b> to the appellant. The <b>NPPF1 letter</b> gives the appellant an opportunity to comment on any change in position brought about due to amendments to the Framework.</p> <p>The CO to send the <b>NPPF2 letter</b> to the LPA giving them an extension of time to submit their statement and an opportunity to comment on the Framework.</p> <p>Any comments received from the LPA to be cross copied at the extended deadline as usual.</p> <p><b>CO to record deadline for comments within the Important information field in Horizon.</b></p>
The LPA statement has been received and there are at least 3 weeks before the event	<p>The CO to send the <b>NPPF 5 letter</b> to the appellant and LPA giving them an opportunity to comment on any change in position brought about due to the revisions to the Framework.</p> <p>Any comments received should be crossed copied using the <b>NPPF3 letter</b>. Comments received following the <b>NPPF3 letter</b> should be cross copied for information only.</p> <p>*The case officer may need to consider amendment to this process on individual cases depending on the cross-copying of 5 week</p>

	<p>representations and any overlap with existing final comment stage.</p> <p>CO to record deadline for comments within the Important <b>information field</b> in Horizon.</p>
File with Inspector before the event	<p>The Inspector should contact the CO if they consider it necessary to contact the appellant and LPA (and other parties) to be invited to comment on the revised Framework.</p> <p>If the Inspector agrees that the appellant and LPA (and other parties) should be given an opportunity to comment the CO should send the <b>NPPF4 letter</b> to all the parties identified by the Inspector and amend as necessary according to any instructions from the Inspector.</p> <p>Any comments received should be crossed copied using the <b>NPPF3 letter</b>. Comments received following the <b>NPPF3 letter</b> should be cross copied for information only.</p> <p>CO to record deadline for comments within the Important <b>information field</b> in Horizon.</p>
NPPF issued immediately before or during a hearing or inquiry	<p>Inspector, appellant and LPA will need familiarise themselves with the revision to the Framework to decide if they feel it is relevant. The Inspector may need to adjourn or there may be requests for adjournments.</p> <p>Inspector may be able to hear views at event or may invite further written submissions. Inspector to inform CO of any deadlines.</p> <p>The CO should send the <b>NPPF4 letter</b> to the appellant and LPA (and any other parties) and amend as necessary according to any instructions from the Inspector.</p> <p>Any comments received should be crossed copied using the <b>NPPF3 letter</b>. Comments received</p>

	<p>following the <b>NPPF3 letter</b> should be cross copied for information only.</p> <p>CO to record deadline for comments within the Important <b>information field</b> in Horizon.</p>
File with Inspector after the event	<p>The Inspector should contact the CO if they consider necessary to contact the appellant and LPA (and other parties) to be invited to comment on the revised Framework.</p> <p>If the Inspector agrees that the appellant and LPA (and other parties) should be given an opportunity to comment they should send the <b>NPPF4 letter</b> to all the parties identified by the Inspector and amend as necessary according to any instructions from the Inspector.</p> <p>Inspector to inform CO of any deadlines.</p> <p>Any comments received should be crossed copied using the <b>NPPF3 letter</b>. Comments received following the <b>NPPF3 letter</b> should be cross copied for information only.</p> <p>CO to record deadline for comments within the Important <b>information field</b> in Horizon. Do not issue the decision until the deadline has expired.</p>
Decision ready for despatch	<p>No decision to be issued until the CO has contacted the Inspector to see if he/she wants to invite further comment.</p> <p>If the Inspector agrees that the appellant and LPA (and other parties) should be given an opportunity to comment they should send the <b>NPPF4 letter</b> to all the parties identified by the Inspector and amend as necessary according to any instructions from the Inspector.</p> <p>Inspector to inform CO of any</p>

	<p>deadlines.</p> <p>Any comments received should be crossed copied using the <b>NPPF3 letter</b>. Comments received following the <b>NPPF3 letter</b> should be cross copied for information only.</p> <p>CO to record deadline for comments within the Important <b>information field</b> in Horizon. Do not issue unless the Inspector has confirmed comments received.</p>
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### Third parties

Although we are unlikely to need to directly approach third parties we may receive additionally/late representations following the issue of the revised NPPF. These should be brought to the attention of the team leader and if accepted should be copied to the main parties.

### Letters

#### NPPF1 Letter

I refer to the above appeal and the [revised National Planning Policy Framework](#) which came into force on 24 July 2018

Further information regarding the revised Framework can be found on GOV.UK:

<https://www.gov.uk/government/news/governments-new-planning-rulebook-to-deliver-more-quality-well-designed-homes>

If you consider that the revised Framework has relevance to your case please submit your comments on this matter **only** in a submission titled 'National Planning Policy Framework'.

You should send any comments you wish to make to the LPA at the same time as us.

The deadline for submission of your comments is within 2 weeks from the date of this letter.

## **NPPF2 Letter**

I refer to the above appeal and the [revised National Planning Policy Framework](#) which came into force on 24 July 2018

Further information regarding the Framework can be found on GOV.UK:

<https://www.gov.uk/government/news/governments-new-planning-rulebook-to-deliver-more-quality-well-designed-homes>

The deadline for submission of your statement has been extended until (enter date) to enable you to consider the relevance of the revised Framework to this appeal.

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## **NPPF3 Letter**

Further to my previous letter, please find enclosed comments received from [the [appellant/LPA/interested parties] regarding the [revised National Planning Policy Framework](#).

If you have any comments on the attached **only** please send them to me within 5 working days of the date of this letter.

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## **NPPF4 Letter**

I refer to the above appeal and the [revised National Planning Policy Framework](#) which came into force on 24 July 2018.

Further information regarding the Framework can be found on GOV.UK:

<https://www.gov.uk/government/news/governments-new-planning-rulebook-to-deliver-more-quality-well-designed-homes>

If you consider that the revision to the Framework has relevance to your case please submit your comments on this matter **only** in a submission titled 'National Planning Policy Framework'.

The deadline for submission of your comments is within two weeks from the date of this letter.

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## **NPPF5 Letter**

I refer to the above appeal and the [revised National Planning Policy Framework](#) which came into force on 24 July 2018

Further information regarding the Framework can be found on GOV.UK:

<https://www.gov.uk/government/news/governments-new-planning-rulebook-to-deliver-more-quality-well-designed-homes>

If you consider that the revised Framework has relevance to your case please submit your comments on this matter **only** in a submission titled 'National Planning Policy Framework'.

The deadline for submission of your comments is within 2 weeks from the date of this letter.