



PINS NOTE 01/2016

To: All Inspectors (England)

Relevancy: Planning appeals and Secretary of State Casework;
and Local Plans examinations

Date of Issue: 12 February 2016

Currency: Review on 12 February 2017

UPDATED PLANNING PRACTICE GUIDANCE SECTION ON NEIGHBOURHOOD PLANNING IN RELATION TO HOUSING LAND SUPPLY

Action

1. On 11 February 2016 the [Neighbourhood Planning section](#) of the Planning Practice Guidance (PPG) was updated in relation to housing land supply¹. The changes apply from the date of publication and **should be taken into account in planning decisions with immediate effect.**
2. A new [paragraph 082](#) has been inserted to explain how planning applications should be decided where there is an emerging neighbourhood plan but the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.
3. It states that decision makers may still give weight to relevant policies in the emerging neighbourhood plan, even though these policies should not be considered up-to-date. The weight that may be given to such policies is set out in paragraph 216 of the NPPF. It also states that documentation used to support or respond to emerging neighbourhood plans may also assist decision makers.

¹ Clarification is also provided on parish/town councils establishing an advisory committee; and, the Natural Environment section is also updated in relation to green infrastructure. The section on Appeals has also been amended to update for the latest links to Written Ministerial Statements and from the former Planning Portal to the GOV.UK website. See Latest planning practice guidance updates on the Knowledge Centre PINSnet homepage.

4. A new [paragraph 083](#) has been inserted to explain how planning applications should be decided where there is a 'made' neighbourhood plan but the local planning authority cannot demonstrate a five-year supply of deliverable housing sites².
5. It notes that paragraph 49 of the NPPF applies to the relevant adopted statutory development plan but also to the policies in neighbourhood plans that have passed the referendum stage and been 'made'.
6. The guidance is that when considering the adverse impacts of a proposal against the policies in the Framework as a whole (as required by paragraph 14 of the NPPF, when a development plan is out of date), decision makers should include within their assessment those policies in the Framework that deal with neighbourhood planning. This includes paragraphs 183–185 of the Framework; and paragraph 198 which states that where a planning application conflicts with a neighbourhood plan that has been brought into force, planning permission should not normally be granted.³
7. Other related amendments:
 - [paragraph 009](#): the reasoning and evidence used to support the Local Plan process is likely to be relevant to the consideration of the basic conditions against which an emerging neighbourhood plan is assessed. For example, up-to-date housing needs evidence is relevant to the question of whether a housing supply policy in a neighbourhood plan or Order contributes to the achievement of sustainable development.
 - [paragraph 009](#): neighbourhood plans should consider providing indicative delivery timetables and allocating reserve sites. This is to ensure emerging evidence of housing need is addressed and could help to minimise conflicts with a Local Plan.
 - [paragraph 040](#): neighbourhood plans are not obliged to contain policies addressing all types of development. Where they do contain policies relevant to housing supply, these policies should take account of latest and up-to-date evidence of housing need. Local planning authorities are encouraged to share their evidence on housing need with the bodies preparing a neighbourhood plan.

² See *Ivan Crane v SSCLG and Harborough District Council* [2015] EWHC 425 (Admin) where the court held the Secretary of State had acted lawfully in giving significant weight to the conflict between a proposed development and a "made" neighbourhood plan in circumstances where the latter was out-of-date within the terms of paragraph 49 of the NPPF (see paragraphs 73 and 77).

³ Although the Secretary of State's appeal decision of 10 February 2016 on [2189451](#) pre-dates the guidance changes it does illustrate his most recent approach to paragraph 198 of the Framework.

Background

8. Inspectors will wish to ensure that the weight they give to the new guidance mentioned above is consistent with the Government's policy intentions, and that progress is maintained in the decision-making process without allowing any significant unnecessary delay.
9. Where such matters are a consideration in the appeal before them and including where a decision has been sent to Despatch prior to the publication of the new guidance, but had not been issued at the point of its publication (even if the parties have not specifically raised the matter), due consideration should be given by Inspectors to allowing the parties a suitable opportunity to provide comment on the bearing the new guidance will have for the appeal, applying the usual natural justice approach to seeking such further comments. Advice on the handling of appeals and Secretary of State casework is at Annex A.
10. As regards local plans that are currently being examined, we do not anticipate that the amended guidance will raise any new issues. However, the revision of the guidance serves to underline that Inspectors should be aware of the relationship between the emerging local plan and any made or emerging neighbourhood plans in the area or adjoining areas. We do not propose that formal steps are initiated by Inspectors in relation to examinations in progress unless the amended guidance is raised as an issue specifically by Councils or interested parties, in which case Inspectors should contact Mary Travers or Lee Armitage to discuss handling further.
11. Please contact XXXX if you have any queries on this Note, XXXX for queries regarding planning appeals casework and XXXX for queries regarding development plans. Non-Salaried Inspectors may wish to approach XXXX with any queries in the first instance, on which XXXX will liaise with XXXX.

APPEALS, CALL-INS

In view of the difficulty for Case Officers in identifying relevant cases, they will not alert the main parties of the need to consider the implications of the updated Planning Practice Guidance section on Neighbourhood Planning in relation to housing land supply in their representations on already submitted appeals. Rather **where relevant it will be for the Inspector to ask the Case Officer upon receipt of a file to alert the main parties**⁴. To facilitate this a letter has been produced to be sent by Case Officers – reproduced at Annex B. It is anticipated, however, that appeal parties will rapidly assimilate the update so this will be a short term measure. Case Officers will be instructed not to turn away representations on this specific matter as “late”. Where a site visit, hearing or inquiry is yet to be held or is sitting Inspectors are advised to accept evidence or submissions on the guidance changes at the event or as written representations.

With regard to undecided cases already before the Inspector, the following approach has been developed to assist in determining which cases can proceed and should not need any additional action, and those which, due to their current position, require reference back to the parties for comment (or merit reopening):

- a) there may be cases where the balance that the Inspector is required to make would be unaffected by the change in guidance, such that the appeal would be dismissed in any event. Provided that the Inspector is satisfied that there would be no infringement of natural justice, it is likely that s/he need not refer back to the parties and can simply note the Planning Practice Guidance changes in his/her decision indicating that they have not borne on the decision. Suitable wording might be along the lines: “I have had regard to the changes to the Planning Practice Guidance section on Neighbourhood Planning in relation to housing land supply which, in the light of the facts in this case, do not alter my conclusion and decision that . . .”.
- b) where a site visit has taken place or a hearing or an inquiry has closed, and the Inspector judges that the parties must be asked to comment, s/he should seek written representations from the main parties on the implications of the updated Planning Practice Guidance section on Neighbourhood Planning in relation to housing land supply, which must be cross copied between the main parties (ie LPA, Appellant and any Rule 6(6) parties). The Inspector must then consider and apply reasonable judgement to the question as to whether it is necessary to re-open the inquiry or hearing

⁴ This in all such circumstances should cover the main parties (LPA, Appellant’s side, and Rule 6 Parties), with others included at the Inspector’s discretion.

(advising Chart as necessary) or, *exceptionally*, where the case is being conducted by WR, to arrange an oral event if the responses merit further exploration of the issues. Before deciding to re-open / arrange an event Inspectors should discuss the case with their SGL or GM; Non Salaried Inspectors (NSIs) should contact the Contract Management Unit (CMU), who will refer to the GM. In bespoke cases the target may need to be adjusted (in such instances Inspectors should contact XXXX for further advice); and

- c) although ordinarily for SoS casework we would not seek views once an event has closed, PINS will refer back to the parties on the implications of the updated Planning Practice Guidance section on Neighbourhood Planning in relation to housing land supply and, as above, may in certain circumstances consider the need to re-open events. Inspectors who already have the case file should contact XXXX for further advice on such cases.

In the event that a decision has been sent to Despatch prior to the publication of the updated Planning Practice Guidance section on Neighbourhood Planning in relation to housing land supply, but had not been issued at the point of its publication, the Despatch Team will **on request from the Inspector** return the decision to the Inspector (in cases where the file has been received in the office it will not be returned unless the Inspector requests it). Having applied the principles above as to whether the case merits re-consulting with the parties or whether suitable explanatory text can be inserted, the decision should either be sent to Despatch or to the Inspector Support reading address (XXXX), in each instance the email subject bar should state "Updated Planning Practice Guidance section on Neighbourhood Planning in relation to housing land supply considered".



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Customer Services: 0303 444 5000
e-mail:

By E-mail

Your Ref:

Our Ref:

Date: xx xxxx 2016

Dear Sir/Madam

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78
DETAILS OF CASE**

The Inspectorate invites the appellant (or their agent) and the LPA to comment on how the updated Planning Practice Guidance section on Neighbourhood Planning in relation to housing land supply affects the development which is the subject of this appeal.

The updated Planning Practice Guidance section on Neighbourhood Planning can be read [here](#) (paragraphs 009, 015, 014, 082 and 083 updated).

Please send your comments to me by [insert date - 14 days from date of letter] and copy in the other party (ie the appellant / agent / LPA as appropriate).

If, having seen the other party's comments as mentioned above, you wish to comment on what they've said, please do so within 7 days of receipt (again, sending to me but copying to the other party too).

A letter in identical terms has been sent to the appellant (or their agent) and the LPA.

Yours faithfully

Xxxx Xxxxxx

Case Officer Name