



PINS NOTE 29/2015r4

To: All Inspectors (England)

Relevancy: Planning appeals and Secretary of State Casework;
and enforcement appeals

Date of Issue: 1 September 2015

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Last updated: 19 December 2016: Paragraph 1 updated with a
hyperlink to the Written Ministerial Statement.

PLANNING POLICY STATEMENT ON GREEN BELT PROTECTION AND INTENTIONAL UNAUTHORISED DEVELOPMENT

Action

1. The Secretary of State issued on 31 August 2015 a planning policy statement (PPS) on Green Belt protection and intentional unauthorised development (DCLG informed Chief Planning Officers in England by letter). This statement was also laid in the House as a Written Ministerial Statement on 17 December 2015.

New Policy on the Materiality of Unauthorised Development

2. The PPS introduces a planning policy to make intentional unauthorised development a material consideration that would be weighed in the determination of planning applications and appeals.
3. This policy applies to all new planning applications and appeals, including enforcement appeals, **received** from the date of publication of this statement (31 August 2015).
4. It applies equally to the settled and traveller communities, **and throughout the whole of England.**

Green Belt and 'very special circumstances'

5. The PPS also sets out the Government's policy that, subject to the best interests of the child, personal circumstances and unmet need

are unlikely to clearly outweigh harm to the Green Belt and any other harm so as to establish very special circumstances.

6. This policy applies to planning applications and appeals, including enforcement appeals, **from the date of publication of the PPS and should be taken into account in planning decisions with immediate effect.**
7. It applies equally to the settled and traveller communities.
8. Further advice is available in the Planning Practice Guidance on how [should children's best interests be taken into account when determining planning applications?](#)

Cancellations

9. In addition the Government has cancelled¹ the:
 - Guide to effective use of enforcement powers – Part 2 (2007); and,
 - Designing Gypsy and Traveller sites, Good Practice Guide (2008)

Extant guidance

10. The 'Guide to effective use of enforcement powers - Part 1 (2006)' remains extant.²

Background

11. The Government previously consulted on proposals to ensure fairness for all in the planning system and provide greater protection for our countryside (PINS Note 14/2014 is hereby withdrawn).
12. Inspectors will wish to ensure that the weight they give to the new policies mentioned above is consistent with the Government's intentions, and that progress is maintained in the decision-making process without allowing any significant unnecessary delay.
13. Where such matters are a consideration in the appeal before them and including where a decision has been sent to the Case Officer for despatch prior to the publication of the PPS, 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 PPS will have for the appeal, applying the usual natural justice approach to seeking such further

¹ See DCLG letter of 31 August to Chief Planning Officers in England.

² See DCLG letter of 2 October 2015 to Chief Planning Officers in England.

comments. Advice on the handling of appeals and Secretary of State casework is at Annexe A, and a protocol for handling planning and enforcement appeals casework is available [here](#).

14. Please contact XXXX if you have any queries on this Note, XXXX for queries regarding planning appeals casework and XXXX for queries regarding enforcement casework. 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 PPS 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**³. It is anticipated, however, that appeal parties will rapidly assimilate the contents of the PPS. 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 policy 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 policy, 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, can simply note the PPS 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 planning policy statement on Green Belt protection and intentional unauthorised development 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 publication of the PPS, 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 (advising the Case Officer 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

³ 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.

contact XXXX, 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 PPS 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 the Case Officer for despatch prior to the publication of the PPS, but had not been issued at the point of its publication, the Case Officer 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 the Case Officer for despatch or to the IS Unit address, in each instance the email subject bar should state "PPS on GB protection considered".