

The Consultation Draft NPPF and Written Ministerial Statement

- A.1 The consultation draft National Planning Policy Framework (**'draft NPPF'**) and the Written Ministerial Statement (**"WMS"**) of the Deputy Prime Minister were published in July 2024.

Draft NPPF

- A.2 The consultation period runs until 24 September 2024.
- A.3 This is a consultation draft and cannot in my view be given material weight in planning decisions, to suggest otherwise would negate the consultation process and suggest that the authors will not take account of the very consultation process they have initiated. The consultation draft is of course subject to change following that consultation process.
- A.4 The dangers of attaching any material weight to the consultation draft are evident from the recent past. If one took the 2022 NPPF consultation and gave any of its content any material weight the outcomes of the exercise could have led to serious misrepresentation of Government policy in decision making.
- A.5 I also note that in 2022 and 2023 in parallel with the consultation on the NPPF and indeed in association with the adoption of the NPPF the Secretary of State stated:

"That the current housing model – from supply to standards and the mortgage market – is broken, we can all agree." Rt Hon Michael Gove MP July 2023¹

- A.6 The circumstances identified by the new Labour Government are not new and have long underpinned successive Governments' approach to planning and housing, including the policy imperative to boost significantly the supply of housing.
- A.7 Indeed in *Fixing our Broken Housing Market* in 2017², the White Paper noted:

"The housing shortage isn't a looming crisis, a distant threat that will become a problem if we fail to act. We're already living in it."

- A.8 In considering weight parallels can be drawn with the NPPF itself wherein at paragraph 48 it gives advice on weight to emerging plan documents noting that the further along the process they have advanced then the greater weight it can carry³. The consultation version of the NPPF has not been subjected to any consideration of any responses to the consultation as yet, and so it is at the very earliest stage of preparation. It is simply not known at this early stage the significance, extent and nature of unresolved objections.

- A.9 The draft NPPF notes that:

"Once established Green Belt boundaries should only be altered where exceptional circumstances are fully evidenced and justified through the preparation or updating of plans."

¹ Forward to 'Home Advantage' by Bright Blue and Shelter

² Fixing or Broken Housing Market Presented to Parliament by the Secretary of State CLG February 2017

³ I note that save changing the paragraph number from 48 to 49 no change is proposed in the consultation draft NPPF in respect of this matter

- A.10 In the context of decision making it is relevant to note that the key Green Belt development management tests associated with this form of development, (inappropriate development subject to the very special circumstances test) are not proposed to be altered in the consultation draft NPPF, although the requirement to provide 50% affordable housing on such sites (proposed paragraph 155) is a new policy requirement.
- A.11 The draft NPPF seeks to introduce a new category of land designation called *grey belt* land. The glossary defines such land as land in the Green Belt comprising previously developed land and/or land that makes a limited contribution to the five Green Belt purposes.
- A.12 The existing NPPF considers pdl in the context of Green Belt at 153(g). The draft proposes a change to former 153 to simplify the approach to exceptions where the proposed development on pdl would not cause substantial harm to the openness of the Green Belt.
- A.13 Proposed paragraph 152 introduces grey belt land and states that housing development on grey belt should not be considered inappropriate when located in sustainable locations and not fundamentally undermining the function of the Green Belt across the area as a whole and compliance with 155 of the draft NPPF. NPPF 155 requires any decision pursuant to 152 to secure at least 50% affordable housing, necessary improvements to local infrastructure and provision of new accessible green spaces.
- A.14 For the reasons I have explained in my proof the proposal is not located in a sustainable location and does not secure 50% affordable housing and a development of this quantum is not capable of providing new or improved accessible green spaces.
- A.15 As such, the changes to the draft NPPF do not support the proposed development.
- A.16 However, whilst the changes proposed are a material consideration only limited weight at the very greatest can apply to the consultation draft of the NPPF at this stage.

The WMS

- A.17 The WMS reaffirms that planning is a local activity and that decisions about what to build and where should reflect local views and that the needs of an area should be met by identifying enough land through local plans. In that context the Deputy Prime Minister stated:
- “The plan making system is the right way to plan for growth and environmental enhancement, ensuring local leaders and their communities come together to agree on the future of their areas. Once in place, and kept up to date, local plans provide the stability and certainty that local people and developers want to see our planning system deliver.”*
- A.18 The WMS foreshadows proposed changes in policy which may follow the consultation process and potential reformulation of national policy in due course. It therefore provides little certainty at this stage and should carry limited weight.
- A.19 The WMS states that we “...need to make sure we are building in the right places.”. It goes on to state that there will be a sequential approach which mirrors current adopted policy where development on higher performing Green Belt is the last port of call. This site is within the Green Belt, contributes to the purposes of the Green Belt, and so the content of the consultation and WMS has no material impact on the planning considerations at the current appeal.

- A.20 The WMS also states *“This Government is therefore committed to ensuring the Green Belt serves its purpose, and that means taking a more strategic approach to Green Belt release. We will start by requiring local authorities to review their Green Belt boundaries where they cannot meet their identified housing, commercial or other development needs.”* Release of this site through appeal would not reflect the strategic approach to Green Belt release referred to by Government, and the sequential approach required for this assessment would first need to be carried out at a strategic level (as it has as part of the emerging Local Plan and its proposed site allocations which exclude this site).
- A.21 The WMS maintains that Green Belt land release outside the plan-making process must still demonstrate that ‘very special circumstances exist’, thus the WMS does not take any different approach than current Government policy (i.e. as set out in Section 13 of the NPPF).
- A.22 As referenced in the WMS, this is the *“first step of a bigger plan”*. It is currently uncertain what future policy changes and requirements could be, what they mean for decision-makers in the future and when they will be enacted.
- A.23 It is imperative that decision-makers are clear what these policies are before letting the content of the consultation or WMS influence decision-making. The NPPF of December 2023 remains the most up to date formal expression of Government policy.
- A.24 In my view only limited weight can apply to the WMS.
- A.25 I am mindful of some recent appeal decisions where Inspectors have attributed weight consistent with my view, including⁴:

“During the course of the inquiry, the Government published a written ministerial statement and a consultation on proposed changes to the Framework. The main parties have been given the opportunity to comment on these documents in so far as they relate to the appeal. As the changes are only in draft form and may change depending on the outcome of the consultation, I give only limited weight to them.”

- A.26 Another decision also considers the position and concludes⁵:

“In reaching that view I have had regard to the Written Ministerial Statement and draft National Planning Policy Framework published on 30 July 2024. National policies relating to housing land supply are proposed to change as part of this consultation and consequently it has been necessary to consult the parties.

I agree with the appellant that the consultation and the statement indicate a clear direction of travel. However, given that any changes are at the consultation stage they can only be given limited weight in the determination of the appeal ...”

⁴ DL5 of APP/G5180/W/24/3339919 Home Farm, Kemnal Road, Chislehurst BR7 6LY, 22 August 2024

⁵ DL25 and 26 PP/H1840/W/23/3333122 Land to the East of Main Street, Bishampton WR10 2NL