



RESCUE

The British Archaeological Trust

15a Bull Plain, Hertford,
Hertfordshire SG14 1DX
Telephone: 01992-553377

rescue@rescue-archaeology.freeserve.co.uk
<http://www.rescue-archaeology.org.uk>

Draft National Planning Policy Framework: Consultation Response by RESCUE: the British Archaeological Trust

RESCUE is an entirely independent charity, which exists to promote and highlight the interests of archaeology and the wider historic environment within the United Kingdom. We have no links with any political party and are funded entirely by the subscriptions and donations of our members. Details of our activities can be found on our website: www.rescue-archaeology.org.uk. Please note that this communication and any response we may receive as a consequence may be placed on our website for the information of our members.

Summary:

RESCUE believes that the current planning system is confusing, cumbersome and in places, contradictory. In principle, we welcome the Government's stated intention to simplify the system and to make it more accessible to both developers and the general public alike.

However, RESCUE does not believe that the National Planning Policy Framework, as drafted, provides a suitable alternative. In redrafting and slimming down the existing documentation, the Government has created a proposed planning system which offers very little regulation to protect the historic or natural environment from destruction or damage by development. The automatic presumption in favour of sustainable development appears to lay the foundations for what could be an unregulated development free-for-all, in which both local authority planning departments and local communities will have little or no reasonable capacity to challenge inappropriate or undesirable construction projects. RESCUE would prefer to see a balanced system within which proposals can be judged on their individual merits, taking into account their potential impact on the environment as a whole.

RESCUE also does not believe that the draft NPPF provides the same level of protection for the Historic Environment that is currently provided by PPS5. In this respect, the NPPF fails the Government's own aims, as the Government has previously avowed that it intends no dilution of current protection regimes to ensue from this revision of planning policy.

National Planning Policy Framework Consultation questions

(v) Would you be happy for us to contact you again in relation to this consultation?

Yes

No

Help save the past for the future

Delivering Sustainable Development

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

1(a) – Do you agree?

~~Strongly agree~~

~~Agree~~

~~Neither agree or Disagree~~

~~Disagree~~

Strongly Disagree

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

The presumption in favour of sustainable development is a flawed concept. A planning system should provide a framework of principles whereby clearly unacceptable proposals can be immediately dismissed, and where successfully registered applications can be considered in a neutral environment free from bias. An automatic presumption in favour of development removes these safeguards – particularly when (as is the case in the NPPF), the definition of sustainable development is so poorly expressed.

Plan-making

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.

2(a) Do you agree?

~~Strongly agree~~

~~Agree~~

~~Neither agree or Disagree~~

Disagree

~~Strongly Disagree~~

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

Paragraphs 13, 14 & 15. It is difficult to envisage a scenario whereby local planning policy and local plans can be “objectively assessed”, where a strong presumption in favour of development already exists within the umbrella framework.

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

2(c) Do you agree?

~~Strongly agree~~

Agree
Neither agree or Disagree
Disagree
~~Strongly Disagree~~

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

No Comment.

Decision taking

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

3(a) Do you agree

~~Strongly agree~~
Agree
~~Neither agree or Disagree~~
Disagree
Strongly Disagree

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

Paragraph 54 The primary objective of development management should be to ensure that all interested parties are treated equitably, in line with national and local planning policy and guidance. To suggest that development management is simply a process to delivery development *per se*, is unacceptable.

Paragraph 69 Outlines that planning conditions should be enforceable, yet there are no provisions elsewhere for planning enforcement. These provisions are essential and should be detailed.

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

4(a) Do you agree

~~Strongly agree~~
Agree
~~Neither agree or Disagree~~
Disagree
Strongly Disagree

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

Light touch guidance is invariably ineffective – particularly where the potential need for enforcement action is required. Guidance should be firm, clear and unequivocal. This benefits all participants in the planning process by removing ambiguity and minimising the possibility of costly delays.

In the case of the Historic Environment, there currently exists a fragmented array of standards and guidance documents of varying quality, produced by a number of organisations. The perpetuation of this situation will leave the system in a no better state than it is at present, with the strong likelihood of a proliferation of paperwork and contradictory advice. The current PPS5 practice guide was produced by English Heritage. Any future revised guidance should similarly be produced and published by English Heritage, following wider consultation with the historic environment profession. This guidance should be specifically endorsed by the relevant Government Department, as non-government guidance demonstrably carries less validity and may be open to challenge and dispute, neither of which would benefit the planning system or the economy.

Business and economic development

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

5(a) Do you agree?

~~Strongly agree~~

~~Agree~~

Neither agree or Disagree

~~Disagree~~

~~Strongly Disagree~~

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

No Comment.

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

No Comment

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.

6(a) Do you agree?

~~Strongly agree~~

~~Agree~~

Neither agree or Disagree

~~Disagree~~

~~Strongly Disagree~~

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

Paragraphs 72 & 76 – 80. Without an accompanying commitment within the NPPF for preferential consideration of brownfield sites, the town centre policies will be severely compromised by commercial developer preference for the exploitation of previously

undeveloped sites away from town centres. Previously undeveloped sites are seen as being governed by fewer regulations and are subject to constraints than town centres irrespective of the fact that they are inherently less sustainable in character. The overriding presumption in favour of granting applications will prevent local authorities from confronting this preference, and enforcing the controls over the location of certain types of developments that is proposed within town centre policies.

Transport

The policy on planning for transport takes the right approach.

7(a) Do you agree?

~~Strongly Agree~~

~~Agree~~

Neither Agree or Disagree

~~Disagree~~

~~Strongly Disagree~~

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

No Comment.

Communications infrastructure

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

8(a) Do you agree?

~~Strongly Agree~~

~~Agree~~

Neither Agree or Disagree

~~Disagree~~

~~Strongly Disagree~~

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

No Comment.

Minerals

The policies on minerals planning adopt the right approach.

9(a) Do you agree?

~~Strongly Agree~~

~~Agree~~

Neither Agree or Disagree

~~Disagree~~

~~Strongly Disagree~~

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

It is not acknowledged within this section adequately that as a finite resource, by definition mineral extraction is not “sustainable” development. Local authorities should be encouraged more positively than is expressed in **paragraph 100** to support the reclamation of suitable materials for recycling.

Paragraph 102 should state that National Parks, the Broads, AONB’s and World Heritage Sites are to be excluded from consideration. The present statement with the suggestion that they will not be considered “*as far as is practical*” is wholly insufficient, as is the exclusion from this list of other designated assets of historic or environmental sensitivity such as Scheduled Monuments or SNCI’s. This list of excluded areas and sites must be properly comprehensive to prevent abuse of the protection measures that certain classes of site are rightly afforded. RESCUE is however pleased to note that Local Authority consideration of the historic environment is included as one of the environmental criteria against which applications for mineral extraction will be assessed.

Housing

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

10(a) Do you agree?

~~Strongly Agree~~

~~Agree~~

~~Neither Agree or Disagree~~

Disagree

~~Strongly Disagree~~

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

Paragraph 109 Local authorities should be able to include sites where planning permission for housing has been granted, but not yet implemented, within their calculations for their rolling supply of deliverable sites. At present, there are a great many housing projects across the UK where planning permission has been granted by the local authority, but has not yet been implemented by the developer who is waiting for a more favourable economic climate.

Paragraph 110 The presumption in favour of development as set out here will not encourage developers to explore sensitive or desirable adaptive re-use of existing properties, nor the regeneration of existing derelict sites. This policy will more likely encourage a rash of unsuitable applications for large-scale housing developments in inappropriate locations, and will remove the ability of a local authority to reject them, which will be of severe detriment to the local community. A strong preference for the development of brownfield sites should be included if any sort of assessment of “presumption” is to be undertaken.

Planning for schools

The policy on planning for schools takes the right approach.

11(a) Do you agree?

~~Strongly Agree~~

~~Agree~~

Neither Agree or Disagree

~~Disagree~~

~~Strongly Disagree~~

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

No Comment.

Design

The policy on planning and design is appropriate and useful.

12(a) Do you agree?

~~Strongly Agree~~

Agree

~~Neither Agree or Disagree~~

~~Disagree~~

~~Strongly Disagree~~

12(b) Do you have comments? (please begin with relevant paragraph number)

Paragraph 116 could usefully include reference to a preference for applications that are “sympathetic” to local character in the third bullet point.

Green Belt

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

13(a) Do you agree?

~~Strongly Agree~~

~~Agree~~

Neither Agree or Disagree

~~Disagree~~

~~Strongly Disagree~~

13(b) Do you have comments? (please begin with relevant paragraph number)

Although it is clear that the Government intends the Green Belt to be protected, the number of exemptions outlined suggests that designated Green Belt will come under pressure as a result of this framework. The statements in **paragraph 136**, which

effectively bar the creation of new or extended Green Belt areas, are not encouraging.

Climate change, flooding and coastal change

The policy relating to climate change takes the right approach.

14(a) Do you agree?

~~Strongly Agree~~

~~Agree~~

Neither Agree or Disagree

~~Disagree~~

~~Strongly Disagree~~

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

No Comment.

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

14(c) Do you agree?

~~Strongly Agree~~

~~Agree~~

Neither Agree or Disagree

~~Disagree~~

~~Strongly Disagree~~

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

No Comment.

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.

14(e) Do you agree?

~~Strongly Agree~~

~~Agree~~

~~Neither Agree or Disagree~~

Disagree

~~Strongly Disagree~~

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

The lack of any encouragement within this section towards the re-use of existing buildings, and the sensitive adaptive re-use of historic structures, is an obvious loophole in any policy attempting to deal with climate change and environmental

sustainability.

RESCUE welcomes the statement in **paragraph 151** regarding protection for heritage assets and their settings, but would very much like this commitment clearly extended to Conservation Areas and other areas of special designated significance or character such as AONB's. RESCUE also notes that the definition of the term "Heritage Assets" within the Glossary is imprecise with regard to specific types of site (Battlefields for example), and lacks the inclusion of "artistic" elements of our cultural heritage which are currently included within PPS5. This represents a clear weakening of the existing policy provisions.

The policy lacks adequate capacity for local authorities to regulate the environmental effects of the development process itself. For example, the provision of a number of low carbon-emitting properties is pointless, if the demolition and construction process involves creating significant and unnecessary quantities of carbon emissions itself. Local authorities should have a clear ability to refuse applications which involve the wasteful loss of perfectly sound and reusable existing structures.

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

14(g) Do you agree?

~~Strongly Agree~~

~~Agree~~

Neither Agree or Disagree

~~Disagree~~

~~Strongly Disagree~~

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

No Comment.

Natural and local Environment

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

15(a) Do you agree?

~~Strongly Agree~~

~~Agree~~

~~Neither Agree or Disagree~~

~~Disagree~~

Strongly Disagree

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

Paragraphs 163-175 The presumption in favour of sustainable development pervades this entire section. Any useful conservation policies or principles set out by the Government here are tempered by the presence of this presumption, and further

diluted by the number of caveats to permit development in “certain circumstances” (for example in **paragraph 169**, bullet point four). These effectively render the majority of informal or low-level (but nonetheless important) protection regimes for the natural environment virtually useless. This entire section requires significant revision to render it acceptable. RESCUE will be happy to provide further advice on such a redrafting.

Historic Environment

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

16(a) Do you agree?

~~Strongly Agree~~

~~Agree~~

~~Neither Agree or Disagree~~

~~Disagree~~

Strongly Disagree

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

Rescue welcomes the statement in **paragraph 37** that planning authorities should have access to a Historic Environment Record (HER). RESCUE believes that this should be a statutory requirement of local authorities, and that the existence of an HER alone is insufficient without the accompanying employment of an adequate number of appropriately qualified and experienced professional historic environment advisory staff.

Paragraph 176-177 The positive contribution that historic structures can make as a driver for sensitive and high-quality regeneration should be outlined within one or other of these paragraphs. Similarly, the obvious educational benefit of retaining heritage assets is missing, as is reference to The Government’s Statement on the Historic Environment 2010. Both should be incorporated here. The finite and non-renewable status of heritage assets should be stressed more forcibly. PPS5, policy HE3 is demonstrably clear regarding these issues. Some note of the considerable potential of heritage assets to contribute to local, regional and national economies would be beneficial here.

Paragraph 178 The statement regarding the desirability of new development is wholly inappropriate in a section dealing with conservation and should be removed. Heritage assets can act as a positive driver for regeneration as detailed above, but this principle is founded upon the retention and re-use of the asset – not its replacement with new development as is implied here.

Paragraph 179 does not make a significant contribution to discussion regarding the designation of conservation areas. Principles of appropriate evidence-gathering should be outlined, together with the necessity of the input of independent expert advice. It is also the case that members of a local community may consider an area or feature to be important for reasons other than simple historic significance. The ability to test and possibly accept these arguments should be open to local authorities. In relation to this, RESCUE notes that the references to artistic interest contained within PPS5 have

been removed from the NPPF, thus weakening the ability of local communities to define their own sense of local identity and “significance”.

Paragraph 180 should state that it is the duty of a local authority to have the capacity to properly assess submissions by applicants, through access to appropriately qualified advisors who are independent of the applicant. The paragraph should also state clearly that where evidence regarding the relative significance of affected heritage assets is not forthcoming, or where an applicant’s heritage submission is expertly appraised and reasonably deemed to be inadequate, the presumption should strongly be in favour of refusing planning permission.

Paragraph 180 should also conclude with a revised sentence stating that “*Where an application site includes or has the potential to include heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment, and where necessary, the results of a field evaluation, in order to make an informed planning decision.*”

Paragraph 180 The definition of “significance” in the context of heritage assets is poorly-expressed and requires clarification in order to avoid subjectivity. This is particularly important, as the lack of adequate definition could lead both to a weakening of protection regimes and conflict of opinion within the planning process simultaneously. The latter will have the inevitable effect of delaying a decision and introducing entirely avoidable costs into the process. Clarity of expression and adequacy of definition are essential attributes of any system of guidance or regulation, and these are lacking here.

Paragraph 181 Local authorities must have the capacity to ensure developers take account of as yet undocumented archaeological remains within the application process. Where a previously undeveloped site is proposed for development, there exists the possibility that archaeological remains may be present which have yet to be identified. **Paragraph 37** makes certain provision for this possibility, but does not outline that such considerations could and should be tested on an application-by-application basis, in the light of the ongoing pace of discovery of archaeological material as a result of other planning and non-planning related work. On large-scale sites of unknown archaeological potential, the principles of desk-based assessment and field evaluation prior to development (set out previously in paragraph 180), should be followed to ensure that full account is taken of the possibility of important but as yet undiscovered archaeological finds and/or features being present on a development site.

Paragraph 183 The phrases “considerable importance and weight” and “substantial harm” are undefined and open to subjective interpretation. Whilst we accept that some flexibility in these definitions is desirable, a clear foundation for the basis of such assessments is also necessary to avoid ambiguity and potentially costly delays within the system.

Paragraphs 183-185 The lack of a definition of “substantial harm”, and the presumption in favour of sustainable development, effectively weaken current heritage protection policy as set out in PPS5.

Paragraph 184 Should repeat the provisions of PPS5 policy HE9.4, which deals with applications which propose “less than substantial harm”.

Paragraph 185 This appears to strongly weigh in favour of permitting small changes to heritage assets, without considering the cumulative effect and overall loss of significance that multiple small alterations will have on an asset. Small-scale cumulative diminution of original features or material such as this can amount to severe degradation in time, having a similar effect as neglect.

Paragraph 187 Is poorly-expressed and open to subjective interpretation, given the lack of adequate definition of “substantial harm”. PPS5 policy HE 9.5 is both clearer, and more comprehensive. As it stands, Paragraph 187 represents a weakening of current protection regimes and as such is unacceptable.

Paragraph 189 should explain that non-designated heritage assets of archaeological interest may include previously unknown heritage assets identified during pre-application evaluation.

Paragraph 190 The provisions of PPS5 policy 12.1 should be repeated in this paragraph, to assist local authorities in the decision-making process.

Paragraph 191 Must include the word “publication” within the provisions for public accessibility. Publication of results is one of the fundamental concepts which underpins archaeological best practice, and is markedly different to the production of reports and deposition of material in the Historic Environment Record. The absence of “publication” from the provisions of paragraph 191 represents a marked weakening of the current provisions as set out in PPS5 policy HE12.3 and is unacceptable.

Paragraph 191 Specific detail of the developer’s financial obligations to mitigate the harm of their proposals on the historic environment should be outlined, to ensure that appropriately qualified expertise is used in the process of recording and advancing understanding.

Paragraph 191 The appropriate use of planning conditions to ensure damage to the historic environment can be mitigated appropriately should be outlined within this paragraph and specifically linked to paragraph 67.

Impact assessment

The Framework is also accompanied by an impact assessment. There are more detailed questions on the assessment that you may wish to answer to help us collect further evidence to inform our final assessment. If you do not wish to answer the detailed questions, you may provide general comments on the assessment in response to the following question:

17a. Is the impact assessment a fair and reasonable representation of the costs, benefits and impacts of introducing the Framework?

Given the numerous deficiencies in the NPPF draft as it currently stands, it is impossible to adequately assess the accuracy of the impact assessment, as the

calculations have been made upon a flawed evidence base. The NPPF requires significant revision: the Impact Assessment will then require significant revision also.

RESCUE: October 2011

Help save the past for the future