

The New NPPF: General Overview

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10 September 2018

Topics



- How to approach the new NPPF
- Changes in approach
- Transitional issues
- Decision-making
- Comments on interpretation

Approaching the New NPPF



- Described as a “rule book” by SoS
- Still (only) material consideration under s.38(6) PCPA
- Courts unlikely to be keen to find change (e.g. great weight and heritage)

New NPPF more prescriptive?

- Made clear that policies in fn 6 are a closed list (cf *Hopkins Homes*)
- The buffer is more prescriptive – how long assess (3 years), how great the shortfall needs to be (application of Housing Delivery Test)
- However, whether major development for AONB/NP a matter of judgment (changes to the consultation version)

Transitional Issues



- Local plans submitted for examination on/before 24 January 2019 examined under previous NPPF
- Includes London Plan
- Decision-making in the interim – interrelation of NPPF 212 and NPPF 46?
- Then with a recently-adopted plan, the effect of NPPF 213...

Decision-making

- NPPF 38 LPAs approaching decisions in “positive and creative way”
- Prematurity now at NPPF 49
- Attempt to restrict conditions in NPPF 55
- Definition of “Planning obligation” in Glossary
- Design and community involvement in NPPF 128

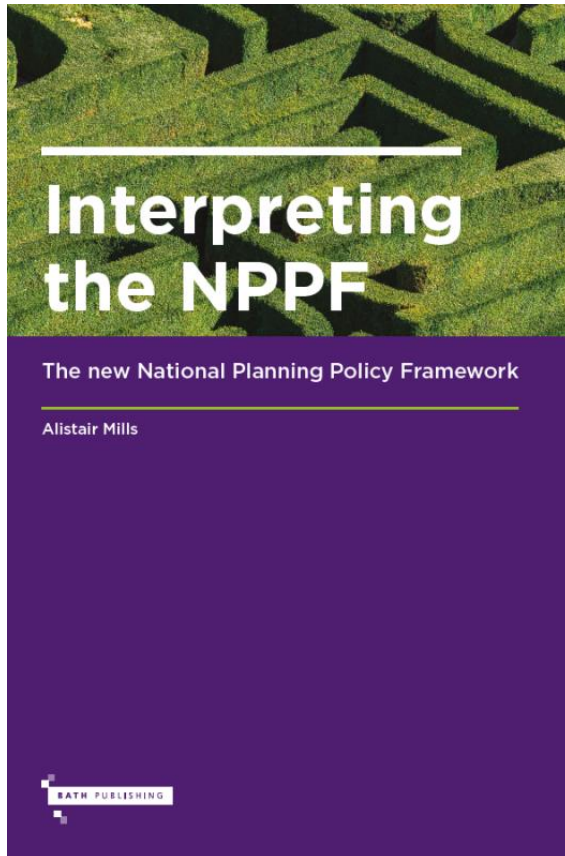
Interpreting the NPPF

- Well-established that interpretation is a matter for the courts (*Tesco Stores v Dundee CC* [2012] PTSR 983; *Hunston Developments Ltd* [2014] JPL 599)
- However, courts stress the distinction between interpretation and application (*Hopkins Homes Ltd* [2017] 1 WLR 1865)
- Sense impatience with interpretation arguments: *Barwood Strategic Land II* [2018] PTSR 88; *Mansell v Tonbridge & Malling BC* [2018] JPL 176
- But... *Samuel Smith* [2018] EWCA Civ 489...

Adopting Previous Interpretation?



- Come up in relation to PPG2 and the Green Belt
- Overall indication is that the courts are likely to follow the previous interpretation of national policy
- But must remember interpreting the new NPPF, not the old (*Turner v SSCLG* [2017] 2 P&CR 1; *Warners Retail (Moreton) Ltd v Cotswold DC* [2016] EWCA 606)
- Take into account the previous interpretation
- Assume SSHCLG aware of previous interpretations



*Interpreting the NPPF: The New
National Planning Policy Framework*
Bath Publishing, 2018

<https://bathpublishing.com/products/interpreting-the-nppf-the-new-national-planning-policy-framework>

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