

The revised presumption

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The whole point



- [7] “The purpose of the planning system is to contribute to the achievement of sustainable development”
- [10] “So that sustainable development is pursued in a positive way, at the heart of the Framework is a **presumption in favour of sustainable development** (paragraph 11)”
- Old [14] has been substantially re-written in [11]- to clarify and address points that have been the subject of litigation
- The presumption remains at the heart of the Framework, but is no longer described as the ‘golden thread’ running through both plan-making and decision-taking

- Plans and decisions should apply a presumption in favour of sustainable development.

For **plan-making** this means that:

- a) plans should positively seek opportunities to meet the development needs of their area, and be sufficiently flexible to adapt to rapid change;
- b) strategic policies should, as a minimum, provide for objectively assessed needs for housing and other uses, as well as any needs that cannot be met within neighbouring areas, unless
 - i. the application of policies in this Framework that protect areas or assets of particular importance provides a strong reason for restricting the overall scale, type or distribution of development in the plan area [see fn 6]; or
 - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

contd



- For **decision-taking** this means:
 - c) approving development proposals that accord with an up-to-date development plan without delay; or
 - d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:
 - i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
 - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

Textual changes- for plan making



- Plans, rather than LPAs, should ‘positively seek opportunities to meet the development needs of their areas’ and should generally be ‘sufficiently flexible to adapt to rapid change’ rather than ‘meeting OANs with sufficient flexibility to adapt to rapid change’
- ‘Strategic policies’ rather than ‘local plans’ should ‘provide for OANs’
- That is now ‘as a minimum’ and is specified to apply to ‘housing’ ‘and other uses’ ‘as well as any needs that cannot be met within neighbouring areas’
- The latter as established through statements of common ground, see [27]
- Nutshell: for plan-making, there is a requirement to meet the OAN unless specific policy ‘provides a strong reason’ not to do so

Textual changes- for decision taking



- Now not just ‘development proposals that accord with the development plan’ that must be approved without delay- it is proposals that accord with an *up-to-date* development plan
- Replacement of granting permission (subject to the 2 caveats) ‘where the development plan is absent, silent or relevant policies are out of date’ with ‘where there are no relevant development plan policies, or the policies which are most important for determining the application are out of date’
- And what will be ‘most important’ policies be...?

Textual changes- the 2 caveats



- Within the 2 caveats to the meeting of OANs or granting permission:
- ‘unless...any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole’- unchanged
- The provision for OANs unless ‘specific policies’ in the Framework indicated that development should be restricted, is replaced by the ‘application of the policies *in this Framework* that protect areas or assets of particular importance’ providing a reason for refusing the development proposed [for decision-taking] or restricting the overall scale, type or distribution of development [for plan-making]
- NB the list of specific policies is contained in a closed list at fn6- this does not now include valued landscapes or severe traffic impact
- NB the reason must be a ‘strong’ one in the case of plan-making; a ‘clear’ one in the case of decision-taking. Any difference?
- Clarification that the exceptions where a proposal conflicts with protective policies is expressly limited to the policies in the new NPPF only (after *Hopkins Homes*)

Interplay of the presumption



- The Housing Delivery Test- the triggering of the presumption where the test shows that delivery is substantially below the requirement over the previous 3 years (operating on a transitional basis)