Accompanied by a high profile launch by the Prime Minister Theresa May and Sajid Javid, Ministry of Housing, Communities & Local Government, the Government published its long-awaited draft revision of the National Planning Policy Framework (NPPF) on 5 March 2018. This consolidates a series of proposals that have been made in the last two and half years, and which have been included in various consultation documents.

The document, and launch, focused on changes to the English planning system and the delivery of new housing, this been the highest profile ‘planning’ issue of current times (of course, the ‘housing crisis’ goes well beyond land use planning considerations alone).

Amidst the raft of new measures, what about the potential implications for environmental assessment?

The Government’s press release focusses on housing delivery but does go on to state that ‘maintaining strong protections for the environment’ remains an objective, specifically:

“Ensuring developments result in a net gain to the environment where possible and increases the protection given to ancient woodland so they are not lost for future generations.”

In his speech at the Conference launching the draft revised NPPF, Sajid Javid noted “Our green spaces are precious and deserve our protection” and promoted “net gains for biodiversity, including strengthening networks of habitats.”

There is always going to be a balance between delivering the homes that are needed and enhancing the environment, but these need not be mutually exclusive, references to net environment gains alluding to this.

The draft document itself consists of proposed revisions to the NPPF which has been in place since March 2012. At the heart of the NPPF remains the ‘presumption in favour of sustainable development’ but with ancient woodland, aged or veteran trees added to the (now) footnote 9 list of protected areas or assets of particular importance. Para 173c strongly protects the deterioration of irreplaceable habitats (such as ancient woodland) unless wholly exceptional reasons and a suitable mitigation strategy exist.

Other changes relating to the environment can be found in Chapter 14 ‘Meeting the challenge of climate change, flooding and coastal change’ (para 147-167), as the revised text clarifies (at para 155) that plans should have regard to the cumulative impacts of flood risk, rather than just looking at the flood risk impact of individual development sites. The interpretation and application of ‘have regard to’ will no doubt play out in due course, but the requirement to consider cumulative flooding impacts aligns planning requirements more closely with EIA.

Proposed changes to Chapter 15 ‘Conserving and enhancing the natural environment’ seek to align the NPPF with the Government’s recently published 25 Year Environment Plan.
This includes additional policy on strengthening existing networks of habitats (para 169) and taking air quality fully into account (para 180), the latter referencing a requirement to ‘secure suitable mitigation’ where appropriate.

In planning terms, the draft NPPF has been brought into line with statute and case law on listed buildings and conservation areas. In Chapter 16 ‘Conserving and enhancing the historic environment’, para 189 (formally 132) adds ‘irrespective of the degree of potential harm to its significance’ to the consideration of impacts to designated heritage assets.

The consultation period for the revised draft NPPF runs to 10 May 2018, with final publication anticipated before the summer parliament recess (24 July 2018).

Of course, the assessment of the environmental impacts of development proposals will continue to be assessed under the EIA Regulations where there are likely to be significant effects on the environment. Notwithstanding, given the interrelationship between the planning system and environmental assessment, the draft revisions to the NPPF will influence the environmental assessment of non-EIA development and EIA development (in planning terms).

We wait to see if the NPPF results in “A simpler, more robust system that sets much clearer expectations – for local authorities and developers alike...” as sought by Sajid Javid, but such objectives should be the aim of both planning and environmental assessment.

Rob Moorhouse, Associate Director, Lichfields, March 2018.

Links