



# **Walsall Council**

## *Planning Committee*

6<sup>th</sup> September 2018

### **REPORT OF THE HEAD OF REGENERATION AND DEVELOPMENT**

#### **Revised National Planning Policy Framework**

##### **1 PURPOSE OF REPORT**

To inform Members about the revised National Planning Policy Framework (NPPF) and the implications of the new national policy, and emerging Government guidance, for how decisions should be made on planning applications.

##### **2 RECOMMENDATIONS**

That Members note this report.

##### **3. FINANCIAL IMPLICATIONS**

None directly from the report. However, the revised NPPF could affect how the council determines certain planning applications, in particular those involving the provision of housing and where developer contributions might be required. The Government intends that the NPPF will result in more new more homes being delivered. If this happens, there could be an increase in New Homes Bonus paid to the Council. The revised guidance about viability could also result in changes to the level of developer contributions being paid where required by policy.

##### **4. POLICY IMPLICATIONS**

The new NPPF will need to be taken into account in the review of the Black Country Core Strategy (BCCS) which is currently underway. Transitional arrangements mean the Council should be able to continue towards the adoption of Walsall's Site Allocation Document (SAD) and Walsall Town Centre Area Action Plan (AAP).

The revised NPPF continues to confirm that planning law requires that applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise. However, care will have to be taken in the application of policies that predate the new NPPF to consider whether or not they will be consistent with the new national policies. This might especially be the case in respect of existing saved policies in the Walsall Unitary Development Plan (UDP), and supplementary planning documents. Given the complexity of planning policy it is not possible to list all

potential issues of consistency, but the new NPPF will be reflected in the advice given on individual planning applications.

## **5. LEGAL IMPLICATIONS**

The NPPF and other statements of Government policy, such as written ministerial statements and existing and emerging Government guidance, are material considerations in the determination of planning applications.

Some of the changes in the NPPF are the result of changes to legislation that are already in effect. These include legislation relating to pre-commencement conditions and the requirement (from the Neighbourhood Planning Act 2017) to have up-to-date strategic policies.

The NPPF explains the Government's approach to various legal requirements in respect of plan-making and it increases some of the responsibilities of local planning authorities. These include the requirement (from the Neighbourhood Planning Act 2017) to have up-to-date strategic policies and keep plan under review, and to work together on strategic and cross-boundary issues under the Duty to Co-operate. Compliance with the NPPF is one of the tests of 'soundness' in the Examination of Local Plans.

## **6. EQUAL OPPORTUNITY IMPLICATIONS**

None arising from the report. The council will have to examine the implications for equal opportunities when preparing plans and making decisions in the future that are required to take account of the NPPF.

The NPPF itself has been the subject of an Equality Impact Assessment by Government. This states that the policy changes in the NPPF are strategic and set out at a national level. Accordingly, *"the NPPF has only an indirect effect on individuals – it is through the application of the Framework in plan-making and decision-taking that any impacts will occur, and therefore this assessment cannot be definitive on the impact on individuals with protected characteristics". "The application of the changes will, in the first instance, be the responsibility of each local planning authority."*

## **7. ENVIRONMENTAL IMPACT**

The NPPF contains policies relating to a wide range of environmental issues. These include health, safety, sustainability, design, climate change, flooding, the natural environment and the historic environment. It seeks to reconcile protection and enhancement of the environment with support for development and growth through *"a presumption in favour of sustainable development"*.

## **8. WARD(S) AFFECTED**

All.

## **9. CONSULTEES**

Officers in Development Management, Delivery and Development, Highways and Environment and Legal Services have been consulted on this report.

10. **CONTACT OFFICER**

Neville Ball, 01922 658025

11. **BACKGROUND PAPERS**

National Planning Policy Framework (July 2018), MHCLG

National Planning Policy Guidance (July 2018 revisions), MHCLG

National Planning Policy Framework Equality Impact Assessment (July 2018),  
MHCLG

**Simon Tranter**

**Head of Regeneration and Development**

## Report detail

1. The NPPF sets out the Government's planning policies and how these are expected to be applied both in plan-making and in decision-taking. Planning law requires that applications for planning permission be determined in accordance with the development plan (Section 38(6) of the Planning and Compulsory Purchase Act 2004 and Section 70(2) of the Town and Country Planning Act 1990) unless material considerations indicate otherwise. The NPPF, along with other statements of Government policy such as separate government policy on traveller sites and waste, and written ministerial statements, is such a consideration.
2. The NPPF was originally published in 2012 and replaced a large number of planning policy statements on various topics. Following the Housing White Paper in 2017, the Government published in March 2018 for consultation a draft revised NPPF. The Council responded to this consultation through the Association of Black Country Authorities (ABCA). The final version of the revised NPPF has now been published and is in effect immediately, except in relation to local plans that are in an advanced stage of preparation.
3. However, the NPPF also refers to national planning practice guidance (NPPG). This provides more detailed guidance on a wide range of topic areas, such as air quality, flood risk, design, land stability, land affected by contamination, town centre development, housing and economic needs assessments, housing land availability assessments, viability assessments, developer contributions and planning conditions. Much of the revised guidance that will be needed to implement the NPPF has not yet been published, although there has been consultation, in particular relating to the calculation of housing need.
4. Government announcements about the NPPF have referred to increasing the delivery of housing only. However, the NPPF covers a wide range of topics. The revised NPPF has made few or no changes to policy in respect of many of these, except in some cases to improve clarity, but there have been significant changes to policy affecting a number of topics. In particular these include housing numbers and types, the economy, viability and deliverability, the effective use of land, design, the procedure for revising Green Belt boundaries, and the introduction of the "agent of change" principle. The appendix below provides details of major changes to these topics that could affect decisions on planning applications, require alterations to local plans used to determine applications or that might have significant resource implications for the council.
5. The NPPF can be read in full on the MHCLG web site at <https://www.gov.uk/guidance/national-planning-policy-framework>
6. The revised NPPF has sought to improve clarity in order to address issues that have led to the wording of the previous version being challenged in the courts on a number of occasions. However, the importance of the NPPF as a material consideration in the determination of planning applications, appeals and local plans means that the precise interpretation of its wording is likely to continue to be the subject of emerging guidance, continuing discussion and court cases in the future.

## APPENDIX

### Significant Changes in NPPF Affecting Planning Applications and Local Plans

#### ACHIEVING SUSTAINABLE DEVELOPMENT (NPPF Paragraphs 7 – 14)

1. The purpose of the planning system is to contribute to the achievement of sustainable development (Section 39 of Planning and Compulsory Purchase Act 2004 (as amended)). The original NPPF introduced the concept of the “*presumption in favour of sustainable development*”. The three objectives of sustainable development (economic, social and environmental) have been retained in the revised guidance. However, the definition of the presumption in the revised NPPF is more narrowly focused around delivery of ‘objectively-assessed’ needs for housing and other land uses, rather than being based on assessing development proposals against the guidance in the NPPF as a whole.

#### PLAN-MAKING (NPPF Paragraphs 15 – 37)

2. As with the previous NPPF, the new version confirms that the planning system should be plan-led. The development plan must include strategic policies to address each local planning authority’s priorities for the development and use of land in its area. These may be included in a strategic plan that only deals with strategic issues (such as the Black Country Core Strategy), or in a local plan that includes both strategic and non-strategic policies. Policies to address non-strategic matters may be included in a local plan or neighbourhood plan.
3. Paragraph 33 advises of the legal requirement introduced in 2017 through an amendment to the Local Planning Regulations that policies in strategic and local plans should be reviewed at least once every five years to assess whether they need updating, and should then be updated as necessary. Relevant strategic policies will need updating at least once every five years if their applicable local housing need figure has changed significantly; and they are likely to require earlier review if local housing need is expected to change significantly in the near future. This will require the continued maintenance of a planning policy resource within local authorities.

#### DECISION-MAKING (NPPF Paragraphs 38 – 58)

4. The revised framework identifies new decision-making measures introduced since 2012 such as ‘brownfield registers’ and ‘permissions in principle’.
5. It has helpfully clarified the weight to be given to policies in emerging development plans, such as the Walsall Site Allocation Document (SAD) and Walsall Town Centre Area Action Plan (AAP) (the more advanced their preparation, for example in the case of the AAP and SAD that have completed their examination, the greater the weight that may be given). It also clarifies the circumstances when applications may or may not be refused on the grounds of ‘prematurity.’ For example, it states that refusal on these grounds will seldom be justified where a development plan has not yet been submitted for independent examination.

6. The requirement for planning authorities to publish a list of the information required with planning applications (Local Validation Checklist) remains within the revised guidance, with one significant change – authorities are now required to review their list every two years. To comply with this requirement the Council will need to review its Local Validation Checklist as a matter of priority. The requirement for more frequent review of these lists will have implications for the future resourcing of development management teams.
7. The policy on the use of planning obligations and planning conditions has been updated, and includes advice on avoiding pre-commencement conditions in line with an amendment to Section 100ZA of the Town and Country Planning Act which is due to come into effect on 1 October 2018 (see Town and Country Planning (Pre-Commencement Conditions) Regulations 2018 (SI 2018 No. 566)). This states that pre-commencement conditions will need express written agreement from the developer if they are to be imposed after 1 October 2018. This significantly reduces the Council's ability to determine applications where some further information is needed or lacking. All such information will now be needed prior to any determination.
8. The 6 tests for planning conditions remain unchanged: paragraph 55 states that they should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects

#### STANDARD METHOD FOR CALCULATING HOUSING NEED (NPPF Paragraph 60)

9. Previously, as part of the preparation of their local plans, local planning authorities were required to prepare a Strategic Housing Market Assessment (SHMA) to assess their housing needs. The 2012 NPPF stated that this should identify the scale and mix of housing and the range of tenures that the local population was likely to need over the plan period, meeting household and population projections, taking account of migration and demographic change.
10. The revised NPPF states that, in place of a SHMA, the local housing need assessment should be conducted using the standard method in national planning practice guidance, unless exceptional circumstances justify an alternative approach which also reflects current and future demographic trends and market signals. In addition to the local housing need figure, any needs that cannot be met within neighbouring areas should also be taken into account in establishing the amount of housing to be planned for. This relies upon the duty to co-operate with neighbouring authorities.
11. The Government has not yet published the final version of this national planning practice guidance, but has stated the intention is that the standard method is to be consistent in aggregate with the proposals contained in the guidance about 'Planning for the right homes in the right places' published for consultation in September 2017. These take as the baseline the household growth projections, which are produced nationally every two years, with an adjustment in each authority area to take account of affordability. This is the ratio between house prices and earnings in the area.

12. For Walsall, the standard method would result in a significant increase in the annual housing requirement compared with that in the current Black Country Core Strategy (BCCS), although it would not be substantially more than that already envisaged by the (SHMA) that has been prepared to assist in the review of the BCCS. This is not unexpected, since the SHMA is also based on the household projections published by the Office for National Statistics.
13. The current BCCS expects the delivery in Walsall of 11,973 new homes over the period 2006-2026. This equates to **599** per year but is phased so that the annual requirements are 507 per year in 2006-16, 460 per year in 2016-21 and 921 per year in 2021-26. In fact, Walsall has exceeded the current BCCS trajectory: a net total of 7,383 new homes were completed between April 2006 and March 2018, the equivalent of 615 per year, compared with the BCCS requirement of 5,987.
14. Walsall's SHMA states that an annual average of **842** new homes will be needed in Walsall over the period 2014-36. The draft standard method only provides a figure for the next 10 years and does not require a 'back log' to be met (making up under-supply in previous years) but indicates that the annual requirement would be **882** new homes.
15. Walsall currently has a 5-year housing land supply in accordance with the existing BCCS target, and the number of completions in recent years has exceeded this target, but the increased requirement that will apply in future years highlights the need to progress the BCCS review to ensure this additional housing is provided in appropriate locations. More housing will be most likely to be delivered in the Black Country if there is access to jobs, so there will be a parallel need for additional employment land.

HOUSING DELIVERY TEST (NPPF Paragraphs 11, 75, 215 and Annex 2. The Housing Delivery Test Measurement Rule Book is published as a separate document with Planning Practice Guidance)

16. Previously, local authorities were required to identify and update annually a supply of specific deliverable sites sufficient to provide five years' worth of housing against their housing requirements with an additional buffer of 5% (moved forward from later in the plan period). Where there had been a record of persistent under-delivery of housing, local authorities should have increased the buffer to 20%.
17. The revised NPPF maintains the requirement for a five year supply plus 5%, but also requires a buffer of 10% where the local planning authority wishes to demonstrate a five year supply of deliverable sites through an annual position statement or recently adopted plan, or 20% where there has been significant under delivery of housing over the previous three years. A recently adopted plan is defined as one adopted between 1 May and 31 October in the previous year, whilst under delivery is defined as delivery below 85% of the housing requirement.
18. Where the Housing Delivery Test indicates that delivery has fallen below 95% of the local planning authority's housing requirement over the previous three years, the authority should prepare an action plan in line with national planning guidance, to assess the causes of under-delivery and identify actions to increase delivery in future years.

19. The revised NPPF states that local planning authorities should consider imposing a planning condition providing that development must begin within a timescale shorter than the relevant default period, where this would expedite the development without threatening its deliverability or viability.
20. As with the previous NPPF, a failure to demonstrate a five-year supply of deliverable housing (with the appropriate buffer), or where the Housing Delivery Test indicates that the delivery of housing was less than 75% of the housing requirement over the previous three years, would mean that, for applications involving the provision of housing, the development plan can be considered out of date unless the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed. These areas or assets are listed in the NPPF and only include Sites of Special Scientific Interest, Green Belt, Local Green Space (this is Green Space designated through local plans: not all open space is categorised as such), designated heritage assets and areas at risk of flooding.
21. For Walsall, delivery measured against the Housing Delivery Test for the 3 years 2015-16, 2016-17 and 2017-18 has been 90% of the requirement. For the Black Country as a whole, on the basis of currently available figures it is estimated to have been 82%. This means that, although the authority will be required to prepare an action plan, the development plan (in the form of the Core Strategy and saved policies of the UDP which are in compliance with the new NPPF, and the SAD/AAP when adopted) can still be considered up to date for applications involving the provision of housing.
22. A significant challenge for Walsall is that the new NPPF changes the definition of “deliverable”, so that it says “*Sites with outline planning permission, permission in principle, allocated in the development plan or identified on a brownfield register should only be considered deliverable where there is clear evidence that housing completions will begin on site within five years.*” The previous NPPF stated that any site with a valid planning permission, including outline, should be considered valid, so this revision could reduce our 5-year housing land supply.

DEFINITION OF AFFORDABLE HOUSING (NPPF Annex 2, see also paragraphs 20, 34, 41, 61-65, 71, 77, 145)

23. The previous NPPF defined this as social rented, affordable rented and intermediate housing provided to eligible households whose needs are not met by the market. The revised NPPF now includes housing for sale. The latter comprises Starter Homes (as specified in the Housing and Planning Act 2016 and secondary legislation that has yet to be enacted), discounted market sales housing (sold at a discount of at least 20% below local market value), and other affordable routes to home ownership. In the latter two cases, provisions should be in place for the homes to remain at an affordable price for future eligible housing, or for any receipts to be recycled for alternative housing provision. As now, this would be secured by section 106 agreement.
24. The requirement to provide affordable housing now applies to sites for as few as 10 homes (the current requirement in the BCCS only applies to sites for 15 or more homes), which equates to the definition of major development in legislation. 10% of the homes on major development should be available for affordable home



ownership (defined as including discounted sale, shared ownership and starter homes). For some of these products it will be difficult to ensure that they are secured in perpetuity. Starter homes for example are a new product and the legislation and national guidance is not yet fully in place to explain how they will operate in practice. The changes also restrict the ability of the Black Country authorities to tailor the tenure of affordable housing to meet local need because 10% affordable home ownership will take precedence as part of the normal 25% requirement on developments of 15 or more homes. Walsall's predominant need has been for rented accommodation. Given viability issues, as well as the existing "vacant building credit" (where existing buildings are converted or redeveloped, their floorspace is deducted when calculating the amount of affordable housing required) this is likely to mean that no affordable rent homes are provided on most brownfield sites. Changes have also been made to allow private 'build to rent' providers to offer affordable housing for rent at 20% below market rent in perpetuity, which will be difficult to control and monitor.

25. Affordable housing can be delivered either through grant funding (from Homes England) to registered providers or through section 106 planning obligations made in connection with planning permissions where developers are required to deliver or fund affordable housing. In recent years a large proportion of Walsall's new housing has been delivered by housing associations as a result of grant funding. Very little affordable housing has come about that is funded by developers through planning obligations. This is because viability assessments have shown that site would be unviable if they were required to contribute to affordable housing. However, as explained below, the new NPPF has changed the provisions in relation to viability.

#### SMALL SITE REQUIREMENT (NPPF paragraph 68)

26. Local planning authorities should identify, through the development plan and brownfield registers, land to accommodate at least 10% of their housing requirement on sites no larger than one hectare.
27. The majority of housing development in Walsall in recent years has taken place on small previously developed sites and this is expected to continue in the near future. Approximately two-thirds of the currently identified housing supply is on sites of less than one hectare.

#### MAKING EFFECTIVE USE OF LAND (NPPF paragraphs 117-123)

28. The new NPPF says planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions. Planning policies and decisions should support development that makes efficient use of land. Where there is an existing or anticipated shortage of land for meeting identified housing needs, it is especially important that planning policies and decisions avoid homes being built at low densities, and ensure that developments make optimal use of the potential of each site. Local planning authorities should refuse applications which they consider fail to make efficient use of land.

29. Plans should contain policies to optimise the use of land in their area and should include the use of minimum density standards for city and town centres and other locations that are well served by public transport. These standards should seek a significant uplift in the average density of residential development within these areas. When considering applications for housing, authorities should take a flexible approach in applying policies or guidance relating to daylight and sunlight, where they would otherwise inhibit making efficient use of a site (as long as the resulting scheme would provide acceptable living standards).
30. BCCS Policy HOU2 already requires a minimum net density of 35 dwellings per hectare, except where higher densities would prejudice historic character and local distinctiveness. In Walsall, the average density of new housing developments over the last 10 years has been at least 45 dwellings per hectare.
31. However, residential gardens and public open space have an important role in making attractive places in which to live, as well as providing for play and healthy lifestyles. There is only limited capacity in the existing urban area for the additional homes that will be needed in the future even if these are built at high densities, and there will be some areas where high density housing might be in conflict with the character of the area.

#### ACHIEVING WELL-DESIGNED PLACES (NPPF paragraphs 124-132)

32. The revised NPPF strengthens the importance of good design. It states that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions. Local planning authorities should also seek to ensure that the quality of approved development is not materially diminished between permission and completion, as a result of changes being made to the permitted scheme (for example through changes to approved details such as the materials used).
33. This should make it easier for authorities to uphold good design, however this will require more staff and design skills to work with applicants on improving the design quality of proposals and defending refusals of poor quality schemes. Paragraph 129 states that local planning authorities should ensure that they have access to, and make appropriate use of, tools and processes for assessing and improving the design of development.

#### PROTECTING GREEN BELT LAND (NPPF paragraphs 133-147)

34. The revised NPPF makes few changes to Green Belt policy but now requires alterations to Green Belt boundaries to only be made where exceptional circumstances are fully evidenced and justified, through the preparation or updating of plans. It also incorporates proposals in the Housing White Paper and the Ministerial Statement that all other reasonable options should be examined beforehand. These include making as much use as possible of suitable brownfield land and underutilised land, optimising the density of development including uplifting minimum density standards in town and city centres and other locations

wells served by public transport, and discussing with neighbouring authorities whether they could accommodate some of the identified need for development.

35. Two alterations from the previous NPPF are firstly that material changes in the use of land (such as changes of use for outdoor sport or recreation, or for cemeteries and burial grounds) are now to be considered as not inappropriate in the Green Belt, provided they preserve its openness and do not conflict with the purposes of including land within it. The latter alteration rectifies an anomaly in the previous NPPF where appropriate facilities for these uses were not inappropriate but the uses themselves were. As such, uses for outdoor sport and recreation, cemeteries and burial grounds would no longer need to demonstrate the existing of very special circumstances for planning permission to be granted, provided that the development proposed does not impact upon openness. It remains the case that all inappropriate development must demonstrate very special circumstances.
36. Secondly, a new type of development that is not inappropriate in the Green Belt is the limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt than the existing development; or not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority.

#### VIABILITY (NPPF paragraphs 34 and 57)

37. The new NPPF says that plans should set out the contributions expected from development. This should include the levels and types of affordable housing provision required, along with other infrastructure (such as that needed for education, health, transport, flood and water management, green and digital infrastructure).
38. Where up-to-date policies have set out the contributions expected from development, planning applications that comply with them should be assumed to be viable. It is up to the applicant to demonstrate whether particular circumstances justify the need for a viability assessment at the application stage. The weight to be given to a viability assessment is a matter for the decision maker, having regard to all the circumstances in the case, including whether the plan and the viability evidence underpinning it is up to date, and any change in site circumstances since the plan was brought into force. All viability assessments, including any undertaken at the plan-making stage, should reflect the recommended approach in national planning guidance, including standardised inputs, and should be made publicly available.
39. The associated planning practice guidance published alongside the new NPPF states that *“under no circumstances will the price paid for land be a relevant justification for failing to accord with relevant policies in the plan”*. Where a viability assessment is submitted to accompany a planning application this should be based upon and refer back to the viability assessment that informed the plan; and the applicant should provide evidence of what has changed since then. Failure to do so will not justify a waiving of the requirements for contributions, in accordance with policy.

40. This is a significant change compared with the previous guidance. The viability of many sites in the Black Country is related to inherent site conditions such as contamination and instability associated with their industrial history and this may, or may not, be taken into account in the price paid by the current owner. The cost of dealing with these conditions can often only be assessed once site investigations and reclamation works begin so it is not always possible to assess viability at the plan preparation stage.

#### BUILDING A STRONG, COMPETITIVE ECONOMY (NPPF paragraphs 80 to 82)

41. The new NPPF has been criticised for placing less emphasis on the need to plan for economic development. Industry is of vital importance to the economy of an area like the Black Country. However, explicit reference is now given to making provision for storage and distribution operations at a variety of scales and in suitably accessible locations.

#### ENSURING THE VITALITY OF TOWN CENTRES (NPPF paragraphs 85 to 90)

42. The new NPPF does not propose significant changes to planning for town centres, which is disappointing given the increased vulnerability of town centre uses and the need for a strong policy approach towards directing investment into centres.
43. One change that is potentially helpful is an addition to the section explaining how the sequential assessment should be applied, which means that when justifying edge-of-centre or out-of-centre proposals for centres uses, the applicant must show not only that there are no more centrally located sites that are available now but also that there are none which are “*expected to become available within a reasonable time period*”. This acknowledgment that sites don’t need to be available now provides a more realistic approach towards the timescales involved in bringing forward town centre sites for development and will hopefully provide councils with the confidence to refuse inappropriate proposals that should be located within centre where there are centre sites that could come forward to accommodate such development.
44. Whilst this addition to the NPPF is useful the success of the application of the sequential assessment will rely on investment in resources to plan positively for our town centres and to undertake work on defending against inappropriate proposals, along with strong decision making in order to protect the viability of our centres.

#### PROMOTING SUSTAINABLE TRANSPORT (NPPF paragraphs 102 to 107)

45. The new NPPF maintains the approach that development should only be prevented or refused on highways grounds if the residual cumulative impacts on the road network or road safety would be “severe”.
46. Maximum parking standards for residential and non-residential development should only be set where there is a clear and compelling justification that they are necessary for managing the local road network or for optimising the density of development in city and town centres and other locations that are well served by

public transport. In town centres, local authorities should seek to improve the quality of parking so that it is convenient, safe and secure, alongside measures to promote accessibility for pedestrians and cyclists.

47. One addition to the NPPF is recognition of the importance of providing adequate overnight lorry parking facilities, taking into account any local shortages, to reduce the risk of parking in locations that lack proper facilities or could cause a nuisance.

#### POLLUTION (NPPF paragraphs 182 and 183)

48. The new NPPF introduces the 'agent of change' principle. Where the operation of an existing business or community facility could have a significant adverse effect on new development (including changes of use) in its vicinity, the applicant (or 'agent of change') should be required to provide suitable mitigation before the development has been completed.
49. This new principle could be significant in areas such as the Black Country where it is common for new housing to be located close to existing industry or noisy town centre activities. The policy places the onus on the new development to provide mitigation rather than expecting restrictions to be placed on existing lawful activities. This change could be beneficial in safeguarding existing businesses and employment.

#### CONSERVING AND ENHANCING THE HISTORIC ENVIRONMENT (NPPF paragraphs 184 to 202)

50. This part of the NPPF is little changed apart from some clarifications. It continues to confirm that local planning authorities should maintain or have access to a historic environment record. Whilst the Black Country already has a historic environment record, there are currently limited resources to maintain it or to use it in the development management or local plan preparation process.

#### FACILITATING THE SUSTAINABLE USE OF MINERALS (NPPF Paragraphs 203 - 211)

51. The minerals industry remains important in Walsall both because of the jobs it provides directly (for example in brick manufacturing), but also because the availability of minerals is critical to other parts of the economy such as construction.
52. There have been only limited changes to the NPPF guidance on minerals. Some changes proposed in the draft published for consultation earlier this year, which were opposed by ABCA (amongst others), have not been taken forward. The most significant of these is the retention of the statement from the original NPPF recognising that a sufficient supply of minerals is essential to delivery of the infrastructure, buildings, energy and goods the country needs.
53. The Government has also responded positively to the criticism about the omission of the definition of 'minerals of local and national importance' from the draft guidance. The definition has been re-instated in the Glossary of the revised NPPF (Annex 2), with only one minor change to the definition from the previous version, to make reference to unconventional hydrocarbons. There also appears to be

more flexibility over minerals safeguarding when considering planning applications, as there is no longer a requirement to 'not normally permit' other development in minerals safeguarding areas.

54. The revised guidance has also re-instated the support 'in principle' for longer land banks for aggregate minerals than the usual 7 years for sand and gravel and 10 years for crushed rock, to take account of locations of reserves relative to markets (amongst other issues), albeit that this is now in a footnote. This means that areas with significant aggregate mineral resources may be expected to identify higher supply requirements in their plans to meet demand from other areas that cannot identify sufficient resources to meet their own needs. This is an important issue for the West Midlands Combined Authority (WMCA) area, which will be heavily dependent on supplies of aggregate minerals from other parts of the West Midlands and East Midlands to facilitate its ambitious plans for housing and infrastructure development. However, as other parts of the country may also be depending on the same areas for supplies, it is unclear whether these resource areas will be able to meet all demands.
55. Some changes to the guidance requested by ABCA have not been made. For example, the guidance on minerals safeguarding still does not acknowledge the tensions that exist in areas like the Black Country, where there are significant mineral resources but also pressures to accommodate significant amounts of other development, or recognise that 'prior extraction' is rarely feasible in practice, particularly on previously-developed sites. It is also disappointing that the guidance has retained the onerous requirement for development plans to provide for a 25-year supply of brick clay to brickworks.

#### WASTE (NPPF Paragraph 4 and National Planning Policy for Waste)

56. It is disappointing that ABCA's suggestion to incorporate the National Planning Policy for Waste into the NPPF has not been taken forward. The waste guidance is therefore still in a separate document, which will be subject to review once the new UK Waste and Resources Strategy comes out (expected towards the end of 2018). MHCLG has also not responded to the criticism that there is no link to the waste guidance on the revised NPPF web page, as the reference to it in the revised NPPF can be easily overlooked.