

# Comments on Draft National Planning Policy Framework

## Delivering Sustainable Development (Paragraphs 9 to 12)

Paragraphs 9 and 10 define and propose sustainable developments, but as worded it is almost entirely focused on new facilities. This is short sighted: new development has its place, but the most sustainable development of all is re-use, which does not involve fuel for plant to demolish and transport away, the use of energy to reclaim materials, the use of energy to manufacture new construction materials or the transport of the new material to site, sometimes over long distances.

Where new development is appropriate, the most sustainable ones will be the ones that use predominantly locally sourced natural materials whether stone, slate, timber or brick made from local clay. These have a very small carbon footprint in production and transportation, and should have a greater presumption of acceptability than buildings constructed from high footprint materials like aluminium, steel, glass, cement and ceramics. Similarly new constructions with a predominance of reclaimed brick and stone have a small carbon footprint and should be included in the description of sustainable.

Much of Bath's housing stock is between 100 and 250 years old, and with proper maintenance will last as long again. Originally designed for family living, with the larger buildings intended to house a family and their servants, they have proved particularly adaptable with the ability to partition into smaller units or to combine with neighbours to form larger spaces. What started as houses have become flats, shops, offices, museums, medical facilities, warehouses, manufacturing units, schools and even a mosque.

Comparing this with recent developments which had been "purpose built", shows the difference in sustainability. Many acres of perfectly serviceable reusable properties were demolished in the 1960s to build what were described at the time as modern replacements, which are now buildings that have already been demolished because of concrete cancer, or are reaching the end of their life because of metal fatigue or corrosion in their metal frames. New housing tends to have very small rooms compared to the older housing stock, and "planning for people" ought to have minimum space standards for new buildings. More recent office developments constructed as investments in the boom years are now thousands of square metres of unused and unusable space because they were specifically designed as offices and cannot easily be adapted to other uses now that the demand for offices has reduced. These modern derelicts are the demolitions of the future because VAT regulations favour new build in preference to extensive modifications.

The consequence of the current trend for disposable buildings is that finite raw materials start to become scarce, and the energy expended on new construction increases in the future. In the most recent major development in Bath, the steel was manufactured and shipped from China, the glass was manufactured and shipped from Poland, and the stone cladding was quarried near Bath, shipped to Italy for processing for size and shape, then shipped to Scunthorpe for fitting the mountings before being shipped back to Bath for installation. The resultant buildings are only expected to last for 50 years. Had the developer chosen instead to take the locally quarried stone and constructed them as load bearing walls rather than a skin, the development would have had a much lower level of embodied energy, would have a minimum life of at least three times the life of what was built, and a much greater through-life profit from rents for only a marginally greater capital cost of construction.

Most flats and houses currently being built will not last long enough for a purchaser to pass them on to grandchildren, which makes them only fit for rental rather than purchase; and rented properties might perhaps be funded from benefits payments which will hamper rather than encourage economic growth. This identifies the blind spot in the expectation that the planning system will deliver sustainable development as described in paragraph 10. It needs some additional categories:

**Planning for longevity (a sustainability role)** – use existing building stock in preference to new construction, controlled by a requirement that demolition of existing buildings should only be granted permission if the replacement building has a life which exceeds the residual maintainable life of the building to be demolished.

**Planning to avoid waste (a forward looking role)** – encourage the use of empty buildings and land. There are many shops and offices with dwelling spaces on their upper floors that are left empty, and there should be both encouragement (perhaps VAT exempt modernisation schemes) and penalties (perhaps a liability for council tax after being empty for say five years) to encourage them to be brought into use, plus a presumption that planning permission would be granted for change of use (if appropriate).

The other aspect of sustainability that is not covered by the “Planning For People” description is the support services that anybody moving into a new development has a right to expect. Thus when considering the viability of a new development of a substantial size, the decision process must take into account the ability of the new residents to enjoy the living standards that many others already take for granted. A presumption in favour of sustainable development must include in its evaluation the wider aspects of sustainable: whether there are primary and secondary school spaces for their children within a radius that is practical for pedestrians and bus passengers, sufficient ward and bed capacity in nearby hospitals, adequate numbers of ambulances, fire appliances and refuse lorries, GPs and dentists within easy reach, sufficient retail outlets that are within walking distance to avoid dependence on cars, sufficient capacity in water, gas and electricity supplies, sewage systems, and so on. A failure to take these into account as part of the definition of sustainable will result in the construction of brand new slums habitable only by commuters.

An additional source of housing stock is the large number of family sized houses converted into bed-sits for students in university towns, which if not required to be used by students could once again house those on the waiting list for houses. In some parts of Bath, 40% or more of 3- 4- and 5-bedroom houses are now student bedsits. Building more houses is one way of meeting the demand for houses, but reverting bedsits to houses is going to be more affordable for those wanting to buy a house. Again there can be encouragement (subsidies for universities wishing to build purpose-built student accommodation on campus perhaps) coupled with legislation requiring a minimum proportion of a university’s student population (not just intake) to be housed in Halls of Residence, and financial penalties for conversions to rented bedsit which makes such converted properties liable to business rates (because they are businesses after all).

**Summary:** What is described in the Framework as sustainable development is not truly sustainable. There is a lot more to sustainability than constructing new buildings with good insulation and a few solar capture facilities; the use of existing residential and employment assets should be maximised too. In a low-carbon economy, shipping materials long distances needs to be discouraged. Also, the choice of materials needs to be

influenced. At the rate the world is using construction steel there will come a time in the not very distant future, perhaps within a generation, when the supplies of iron ore which are economically recoverable will be exhausted. Concrete manufacture has a huge carbon footprint, as does the manufacture of ceramics and constructional glass. Any presumption in favour of sustainable development must use an honest description of what is deemed sustainable, and must include the infrastructure that contributes to the quality of life for the future residents of new developments.

### **The Presumption in Favour of Sustainable Development (Paras 13-18)**

The objective of the statements in paragraphs 13-18 is understood, but it needs qualification. It also needs to be expanded because housing without employment opportunities is of very limited benefit, so there should be a specific presumption that an existing business should be able to obtain permission to expand provided there are no overriding reasons why such permission should not be granted.

Developments on productive farmland should only have a presumption in favour of permission if the development enhances the ability to produce food or it allows an existing farming business to diversify. Replacing food production capacity with dwellings increases the requirement to import food, which is not compatible with a low-carbon economy.

The presumption in favour of planning approval for developments should be limited to developments **on brownfield sites that do not have any restrictive designation**. Designations that need to be specifically excluded from the presumption are:

- Conservation Areas
- World Heritage Sites
- Heritage Assets
- Urban gardens
- Sites of Special Scientific Interest (SSSIs)
- Sites of Nature Conservation Importance (SNCIs)
- Areas of Outstanding Natural Beauty
- Green Belt Land

Development within these designated areas should be permitted if Local Plans make provision for it, but otherwise there should be no presumption.

The reason for this is that although there is a list of documents which are to be superseded by the Framework, the underlying legislation would still be extant. So unless there are plans to delete this legislation from the statute books they will still be a legal requirement regardless of any later guidelines. The Green Belt legislation allows Local Authorities to remove land from Green Belts, so land that is intended to be built on should be formally withdrawn (after consultation) as part of Local Plans, leaving the remainder protected as the Act intended. The Planning (Listed Buildings and Conservation Areas) Act 1990 is very clear that Planning Authorities should “pay special attention” to preserving heritage assets so designated, and there is case law (the Hammercrest judgement) where the Secretary of State was ruled to have exceeded his authority by not doing so. That judgement legally overrides any presumption in the Framework, and the Framework needs to recognise that.

Many of the documents listed as being withdrawn are simply clarifications of how the underlying legislation is intended to be interpreted, and deleting it whilst leaving the underlying legislation extant is likely to result in Government and Local Authorities facing significant expense handling appeals and judicial reviews to establish case law that is currently unnecessary because Planning Policy Statements and Guidance make the intention of the legislation clear. The principle of withdrawing documents providing clarifications of the law is badly flawed and needs to be reconsidered.

### **Core Planning Principles (Paragraph 19)**

The principles set out in paragraph 19 are in some ways contradictory. Plan-led objectives take some time to be approved and adopted as Local Plans, so there is a considerable lag between what a Local Authority is committed to doing because of its plans, and what the real world needs because of the economic climate. The requirements in the boom years are completely different to the requirements in a recession, and the transition from one to another can occur in a very short time. There is no benefit in building houses which the people who most need them cannot afford, or extending a shopping centre that already has a high proportion of bankrupt tenants.

Somewhere in the core principles should be a requirement to take into account demographic forecasts. If the forecast is (for example) that the majority of housing stock will be occupied by students and the retired within the life of the Local Plan, a presumption to approve developments even if they do not suit the demographics might encourage developers to obtain permission but not develop, a process which improves their balance sheet by increasing the notional value of their land assets but achieves nothing of benefit to society. Local Plans should be objectives to be upheld provided the context in which they were written persists, and not specific targets to be met regardless.

The possibility that some existing open land might have benefits is recognised, but the presumption in favour of developments needs an “unless” constraint protecting beneficial land, or else every refusal for that reason will be overturned on appeal. The principles overlook but need to recognise that some developed land, particularly that in high flood risk areas, is over-development or at best ill-advised development and wider benefits would result in returning it to open space. The presumption is only expressed in terms of development and no requirement for the development to have a benefit is included, and there is a complete absence of any recognition that demolition without replacement might sometimes be the best course of action.

Once a presumption in favour is set as a “golden thread” the protection of heritage is very much put at risk. There are conservation areas which are so designated because there is a common character, and nowhere in the core principles is there any suggestion that a development of an inappropriate design can be refused on those grounds alone. Unless this oversight is corrected, then the settings of listed buildings can be destroyed even if the building itself survives, Conservation Areas might remain in name only, but with what was intended to be conserved damaged almost beyond recognition, and World Heritage Sites could have the views in and out blocked by incongruous new development.

There will be some Local Authorities who will be over-zealous and apply the “golden thread” regardless of whether it is appropriate or not. Indeed there have been some planning decisions made which ignored the legislation designed to control the outcome. The current planning legislation allows appeals to be lodged only where an application is refused, and there are a lot of financial savings to be made from approving everything whether or not there were grounds to refuse it, because then the cost of

employing staff to handle appeals is saved. Regardless of how inappropriate the approval might be, or how obviously wrong the decision is, few will take the decision to the High Court because of the cost of doing so. Unless the planning principles provide for a low cost process of appealing against a planning approval, there is no means of ensuring that all the principles saying what policies and decisions should do will ever be heeded. The “golden thread” introduces an excuse for anarchy in the decision making processes, and no provision is made for policing the decision-making process.

Developers operate for profit, not for social good, and if they build in what proves later to be an inappropriate location, there is no penalty for them. Somebody who buys a house that becomes submerged in a flood a few years later has a house that is unsaleable, and almost certainly uninsurable after the first flood. Yet the developer who built it and the Local Authority who approved its construction would escape without penalty. Unless there is an automatic right for the householder to obtain recompense, perhaps by having an automatic right to be rehoused in another of the developer’s properties in a more sensible location, or by being able to instruct the Local Authority to compulsorily purchase the property to recover the householders equity, the “golden thread” introduces a risk of widespread social injustice.

Developers also want to build on virgin land rather than have to investigate and possibly deal with contamination on brownfield sites. Unless there is a requirement to have a proportion of new housing on brownfield sites (and the current 60% is perhaps slightly on the low side and two thirds is a more realistic target) then development plans will always be biased towards leaving brownfield sites derelict and building instead on virgin land.

Potential developers have for some time been land-banking development land when they have no intention of building on it for a long while, but don’t want anybody else to own it. Local Authorities should have an automatic right to compulsorily purchase derelict brownfield sites that have remained unused for (say) seven years. Likewise Local Authorities should be able to compulsorily purchase dwellings that have remained unoccupied for a similar period of time. Planning is currently too passive, with Local Authorities inert until a developer puts forward a planning outline. Local Authorities should be empowered to design their own plans for development and either go ahead and build (with a Government loan scheme repayable on eventual sale to avoid inertia due to lack of capital), or else invite tenders for developers to construct to the Authority’s specification.

## **Neighbourhood Plans (Paragraphs 49-52)**

Neighbourhood plans as described in paragraphs 49-52 are only of value if they are designed by and are for the benefit of those resident in a particular area and contributions towards them are restricted only to those residents. There is also no indication that the results of a local referendum are binding on anybody, and whether it is or it isn’t binding needs to be clarified.

There is also no provision for identifying land in a neighbourhood which should not be developed, which negates the core planning principle stated earlier in the document that open land could be valuable as open land. There is no provision for alternatives to the strategic plans for an area to be put forward even if a neighbourhood thinks the strategic plans are outdated or simply wrong.

Without proper controls over who can propose neighbourhood plans, a cartel of developers could formulate plans for an area for their own benefit and convince an independent examiner (and it is not described how the examiner can be guaranteed to be truly independent) of the merits of the plan and the plan could be accepted; and if there is a generalisation in the Local Plan that could possibly be interpreted as supporting the aspirations of the developers, their proposals could be implemented despite the neighbourhood voting against it in their referendum. So controls are essential.

In the way that the draft described the policy for neighbourhood plans, the opportunity to produce neighbourhood plans is more of a liability than an asset. Unless there is a requirement for more heed to be paid to the wishes of the residents of a neighbourhood, the opportunity to produce neighbourhood plans is mere window dressing, and they are unlikely to benefit the neighbourhoods affected by them. The cost of the independent examination and a local referendum is unlikely ever to be repaid by real advantages. The policy sounds good, but it does not stand up to scrutiny.

### **Development Management (Paragraphs 53-70)**

The whole tenor of this section is that local authorities should find ways to avoid hindering or preventing development. Yet some developments put forward for their consideration will be ones that should be prevented. For instance there is currently a scheme in the early stages of discussion which proposes to offset the flood risk of a new development on the River Avon flood plain to meet housing targets by planting a small wood upriver to absorb water and lower the river level. The fact that the summer water levels are needed for irrigation of crops and the number of trees proposed would create summer drought conditions is being persistently ignored, as is the fact that the greatest flood risk statistically is in November when the trees will be dormant and having no effect on water levels. Knowing that there is a presumption of approval coming, box ticking a theoretical offset is already replacing common sense about the practicalities. If they are not already doing so, such stupidities will spread nation wide when the policy is mandated.

Few local authorities are staffed for the level of consultation and negotiation envisaged, and with the squeeze on local authority budgets, few will consider providing the necessary level of staffing as a priority. Statutory consultees are likely to be in the same position: English Heritage already responds to the majority of planning applications referred to them with a single paragraph standard letter asking the planning authority to make a decision in accordance with current legislation rather than giving guidance on whether they regard the plans referred in a favourable or unfavourable light, a response that suggests that they haven't had the time or resources to examine the documents supplied. Despite all the expectations of proper development management in the document, it will not happen as described.

Without the staff to negotiate acceptable plans, the easy option is to accept whatever is put forward, regardless of how undesirable it looks. There is nothing in the Framework that indicates any degree of control or oversight over what Local Authorities do or decide. The prediction is that despite all the stated intentions of modifying initial proposals to produce something acceptable, the requirement to foster delivery will result in rubber stamping inappropriate proposals after only a cursory examination.

There is no confidence that this policy statement will prevent planning disasters. It effectively rules against the use of common sense over the dogma that any development is better than no development.

## **Business and Economic Development (Paragraphs 71-81)**

Post-war urban planning has often made the mistake of zoning, giving rise to business parks intended for offices, business parks intended for light industry and warehousing, out of town shopping centres and so on, with each location constructed with what are considered appropriate buildings. Because of these definitions and the buildings themselves, planning decisions enforce this functionality.

This business model overlooks the reality that office workers might want a haircut in their lunch hour, that shop assistants might want to visit an estate agent, and that warehouse workers without a car cannot work a night shift because there is no public transport at the times they need to commute, whilst night shift workers with a car have a long drive to somewhere to eat for their midnight lunch break..

The policy statement “plan for the location, promotion and expansion of clusters or networks of knowledge driven, creative or high technology industries” specifically seeks to perpetuate this failed model. What business employing skilled staff wants to be located right next to their competitors with the consequent risk of leaking secrets over a cafe lunch or having valuable staff poached? Why is a model that is only really practical for car owners being promoted in the context of a low carbon culture? One of the prosperity or the low carbon aims will be sacrificed for the survival of the other.

A low-carbon economy requires a different urban design model. Heavy and polluting industries do have to be isolated, but otherwise, mixed developments should be the objective. Places of work need to be interspersed with service outlets, garages, schools and shops, with residences alongside or even above the street level businesses. Evening leisure activities such as restaurants, cinemas and pubs should also be nearby. The aim should be that from a residence, shops, places of work, places of entertainment and other day-by-day destinations should all be within a 15 minute brisk walk. The more popular and vibrant older suburbs already follow this model, and nothing in this section of the Framework suggests a pleasant or desirable place to live or work will be created by zoning. It must be changed to a requirement to promote mixed use developments wherever possible. Local authorities also need to have powers to control saturation. It is possible to have in a neighbourhood too many convenience stores, letting agencies or gastro-pubs to give just a few examples, occupying premises that would otherwise be used by business that there is an unfilled need for.

The economics of new build compared with conversion and adaptation also needs to be borne in mind. Developers building new shopping centres want a return on the very significant costs of demolition, site clearance and building, and this sets the rental or purchase prices well above the profit margins of some low-income businesses like barbers, florists and greengrocers. As a result, new developments normally attract high margin occupants, which are not the ones that provide household staples. There is too much emphasis in the Framework on development and not enough on the needs of consumers.

Similarly, the policies for town centres and rural locations rely too much on the ideas put forward by local politicians and council officers, the very people who evidentially are least likely to understand the needs for development. The most successful towns and villages have evolved to meet needs and to exploit opportunities, rather than being specifically planned, so these are the areas where a neighbourhood plan ought to be given more weight. Planned locations seem to quickly deteriorate into dormitory towns for commuters rather than becoming a self-reliant community. Commuters often shop near their place of work, to the detriment of the businesses near their residences.

## **Transport (Paragraphs 82-94)**

The most effective transport policy will be one that removes wherever possible the need to travel at all. The alternative urban design model proposed in the Business and Employment Development section above effectively builds self-contained village environments in cities and towns and puts most destinations within walking distance of homes and places of employment. Motorised travel would be much reduced.

The objectives in the transport section completely overlook the simple economics of travel nowadays.

The majority of rural areas have insufficient public transport services to be a practical alternative to a car unless additional services are subsidised by local authorities, and these subsidies are one of the first casualties of tight budgets.

Locations with a near-monopoly of services from a single bus company are almost invariably more expensive for everyday journeys than a private car. Attempts by local authorities to introduce competition always result in a price war which ends when the newcomer either sells to the monopoly or runs at a loss until it ceases to try, when the monopoly fares revert to the previous high levels.

Rail journeys are similarly too expensive. A reporter recently discovered that if two people want to travel, it is cheaper to take a taxi from Bristol to London than it is to buy a peak time rail ticket. Some trans-UK routes are cheaper by aeroplane than by train. The recent announcement of the removal of Government subsidies from long distance travel by bus for the elderly will put them back in cars, not on trains.

Unless and until competition is enforced, by limiting any one company to a maximum of say 60% of the vehicles on any route (by bus or by rail), the idea of balancing transport towards sustainable modes will founder on the rocks of affordability. If necessary to achieve the desired ratio, local authorities should be permitted to operate bus services in competition with commercial operators.

Paragraph 92 is a laudable aim. Unfortunately Paragraph 73, and especially the fourth bullet point of that paragraph directly contradicts it. There is also the problem that a developer who owns developable land has all the power. If a local authority wants a mixed use development and the developer sees the maximum profit from a purely residential development, then the developer only has to wait long enough for the derelict site to become an acute embarrassment to the local authority, and then the local authority will give in. The suggestion of additional compulsory purchase powers to overcome this potential impasse has already been made in the Core Planning Principles section.

## **Communications Infrastructure (Paragraphs 95-99)**

Local authorities are not able to say what is consistent with the efficient operation of the network. They have neither the skills nor the data to be able to assess this. It is therefore pointless to put the obligation in the Framework.

There is a potential conflict between the desire to facilitate growth of communications infrastructure and the desire to preserve the settings of listed buildings and conservation areas. Nowhere in the framework is there guidance on which should take precedence. The loser in this lack of guidance will almost certainly be the heritage assets. The Framework needs to remind local authorities that they need to negotiate and reach approval on telecommunications proposals within the scope of extant legislation



With a stated policy of presumption to approve, appeals against refusals will normally succeed. The evidence from appeal decisions in Bath is that if there is a single precedent in a locality, a similar application will be allowed on appeal, no matter how undesirable the precedent is stated to be in the Local Planning Authority's statement of case. The presumption should be towards reaching agreement rather than approval.

### **Housing (Paragraphs 107-113)**

The cost of building new homes in popular locations where land prices are high will in many cases mitigate against one or more of “high quality” or “well designed” or “affordable” or “preferred location”. The objectives in paragraph 107 are undeliverable to the average family earning average wages. A one-person studio flat in Bath can cost more than a three bedroom family house 50 minutes commute away, yet most of the employment opportunities in Bath are at the lower end of the wage spectrum, ruling out local family housing ownership. How the objective as written is able to be applied to the people it was written for is not at all clear. The policy of previous Governments that ensured that Local Authorities no longer own any social housing stock will need to be reversed before Local Authorities have any chance of delivering the objectives stated.

The only way any local authority can maintain a rolling supply of deliverable sites when the Framework defines no final time limit for the rolling plan, is to assume that all undeveloped land will eventually be required to be built on and that clearance of previously developed land will have to be scheduled. The desire for more housing is understood, but as worded, this part of the Framework has an infinite timescale and eventually requires all land to be devoted to housing regardless of what the land is currently used for, given enough time. That might not be what is intended, but it is the logical consequence of what is actually written down in paragraph 119.

There is no point in building houses unless there are jobs for the new inhabitants to go to. Unemployed people do not have an income to pay rent or council tax, so placing the priority on homes above places of employment just increases the burden on taxpayers, who thereby indirectly subsidise the developers and builders. Houses alone do not boost the economy; jobs provide the incomes to afford houses and also boost the economy. This lack of understanding of the real world by the authors of the Framework undermines its credibility.

The expectation that a truly innovative design can raise the standards of design in rural areas is yet another example of a lack of understanding. Rural areas have a character based on homogeneity and an innovative design cannot possibly enhance the immediate setting; it would stick out like a sore thumb instead. Including the possibility of such buildings in the Framework will encourage the destruction of the rural character, whereas an expectation of a traditional design would preserve it.

### **Design (Paragraphs 114-123)**

The requirement for high quality design, without a proper definition of high quality leaves open some undesirable interpretations of the expression. Many of the buildings that win architectural prizes are downright ugly, and yet qualify as high quality by the judges because they shock.

High quality designs should emphasise the need for the architect's ego to be placed a long way behind preserving the character and scale of the locality. Taller does not often equate to better, denser rarely does.

In order to preserve the character of an area, particularly sensitive areas like Conservation Areas and World Heritage Sites, design codes should be prescriptive and Paragraph 117 ruling out that option sounds the death knell for built heritage; planning refusals for designs that are out of character in sensitive areas are already too often overturned on appeal. These verdicts create an expectation of failure in Local Authorities who then refuse far less often to save future appeals. As a minimum, local planning authorities ought to be able to prescribe a palette of external surface materials and key characteristics of the local style where it is important to the local character to do so. Buildings that provide high levels of energy efficiency are perfectly feasible within such prescriptive design codes, and paragraph 151 which suggests otherwise is positively poisonous and should be deleted.

As in Paragraph 113, Paragraph 121 assumes that innovative design can raise the standards in an area. Those who live near innovative designs rarely agree. This paragraph should be removed. A design should be either appropriate or inappropriate, and the level of innovation should not be a material consideration.

Advertising can make or mar tourist destinations. Limiting consideration to only amenity and public safety leaves opportunities for excessive numbers to introduce an impression of clutter and excessive scale to ruin the perspective of photographs. Advertisements such as “A” boards might not have an impact on public safety but they can still be a hindrance to pedestrian progress (especially those with push chairs and wheelchairs) or block attractive sight lines. Unnecessary or excessive illumination can make a significantly adverse impact on a location, particularly when retail outlets occupy a terrace of listed buildings. It should be for local authorities to define in local plans what is acceptable in their area rather than have the Framework imposing limits on their level of control.

### **Green Belt (Paragraphs 133-147)**

There is little to disagree with in the section on Green Belt, if only the reader could believe that it is true. However previous Government housing targets have been pursued despite the fact that to meet them would have necessitated encroachments onto Green Belt land. As currently worded the Housing section of the Framework requires a similar level of encroachment, though perhaps spread over a longer timescale.

In the past, the exclusion that local transport infrastructure is not inappropriate in Green Belt has led to plans for large out-of-town car parks, which in appearance are very much inappropriate. This section needs to clarify that “transport infrastructure” refers to roads and paths and not to mass parking.

### **Planning For Places (Paragraphs 148-191)**

One of the practical ways to minimise the flooding risk from climate change is to improve the flow capacity of rivers, for example by dredging or even by realignment. Whilst there is no place in the Framework for policies to impose such drainage work, there should be a mention within the objectives that local authorities should consider whether such courses of action are likely to be practical and beneficial.

Paragraph 151 limits the consideration of impact to “designated heritage assets”, which conflicts with the extant legislation which makes it very clear that there can be things that are not heritage assets themselves, but might nevertheless be locally important in their own right or in the context of nearby heritage assets. Case law has established that

social, economic and environmental benefits must be truly exceptional to outweigh harm to a heritage asset, and the Framework underplays the obligation of proof. This paragraph is in any case an uncomfortable presence in the section on greenhouse gas emission. Even the most beneficial building is unlikely to make a significantly higher contribution than one that is not incompatible with the existing townscape yet is built to energy efficient standards, so this paragraph raises false expectations. It should be deleted.

The assessment of benefits from renewable and low-carbon energy should take into account the whole-life costs of the method of producing it. If a scheme has a higher carbon footprint from manufacture, maintenance and eventual disposal than it returns in energy generation throughout its life then there should not be a presumption of approval; in real terms the proposal would be a greenhouse gas liability. Concentrating only on the energy generated can give a false sense of worth.

Paragraph 156 requires the application of Sequential Tests and Exception Tests to flood risk assessments, with footnotes that are only a partial reproduction of the full description of the tests set out in PPS25. Obviously PPS25 would be a better guide than the footnotes, so why withdraw it? This is abbreviation to the point where information of real substance is lost.

There is extant legislation obliging local authorities to provide allotments, yet nowhere in the “Natural Environment” section is there recognition of this in conjunction with the provision of new housing; nor is there any recognition of the desirability of housing developments above a threshold size to include public open space within them. These two oversights should be added to this section.

The “Historic Environment” section correctly identifies that the Planning (Listed Buildings and Conservation Areas) Act 1990 controls what is acceptable in heritage-related situations, but the footnote appears to focus on the plan-making activities and not the decision-making activities which are equally important in the Act and should be reflected in the objectives. The Act also requires any World Heritage Sites to be a consideration in decision making.

The Government has signed up to the World Heritage Convention and is thereby bound by it and the procedures for protecting World Heritage as defined in the Operational Guidelines. These quotations from the Operational Guidelines document emphasise the importance of World Heritage Sites:

- The cultural and natural heritage is among the priceless and irreplaceable assets, not only of each nation, but of humanity as a whole.
- The loss, through deterioration or disappearance, of any of these most prized assets constitutes an impoverishment of the heritage of all the peoples of the world.
- Parts of that heritage, because of their exceptional qualities, can be considered to be of “outstanding universal value” and as such worthy of special protection against the dangers which increasingly threaten them.

Despite this obligation (and the stated worldwide importance of the designated sites) there is no recognition within the objectives that local authorities responsible for World Heritage Sites carry the Government’s obligations to comply with the Operational Guidelines, and this must be added as a specific objective rather than indirectly by a footnote referring to the Act.

The section on conserving heritage assets is a very poor summary of the interpretation of the Planning (Listed Buildings and Conservation Areas) Act 1990 provided by PPS5. As PPS5 was only issued in 2010 and (with its associated Practice Guide) set out to clarify exactly how the Act is to be interpreted, the omissions and discrepancies in the Framework compared to the PPS render this Framework section unfit for purpose. Either PPS5 should be retained and simply referenced in the Framework or it should be reproduced in full, either in-line or as an annex. Failure to do so exposes local authorities to the potential cost of obtaining the same clarifications through case law.

It should be noted that paragraph 185 is an incitement to an unlawful action because the Planning (Listed Buildings and Conservation Areas) Act 1990 makes the presumption of preserving the heritage asset the main consideration, and the Framework's presumption of sustainable development or the guidance towards a "balanced judgement" to be reached is therefore unlawful.

### ***Overview of the Framework***

The length of the comments above is a very clear indication that the Framework in the form offered for consultation is poorly drafted. The justification for superseding existing documents which clearly have a value and a function is not made clear. The introduction suggests that the Framework provides the Government's requirements to the extent that it is relevant, proportionate and necessary; yet much that should be relevant is omitted or misquoted, the housing obligations in particular as stated are not proportionate, and some things that are clearly necessary are not even mentioned.

The Framework reads like a theoretician's (unworkable) bright idea, laid out as policy by those who have no practical experience of the realities of "small town" planning and the consequences of bad planning decisions. It is not possible to un-build something that hindsight shows was a disastrous decision, and strong presumptions will tend to increase such mistakes by under-valuing or overruling local discretion and knowledge. Appeals Inspectors may visit sites but they rarely show that they understand them.

The Framework needs a major overhaul, and a second consultation afterwards, before it can come anywhere near to being described as fit for purpose.