

Consultation

Response Document



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**Draft revised National Planning Policy Framework
(Ministry of Housing, Communities & Local Government)**

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Introduction to CIEEM

The Chartered Institute of Ecology and Environmental Management (CIEEM), as the leading membership organisation supporting professional ecologists and environmental managers in the United Kingdom and Ireland, welcomes the opportunity to comment on this consultation.

CIEEM was established in 1991 and has over 5,000 members drawn from local authorities, government agencies, industry, environmental consultancy, teaching/research, and voluntary environmental organisations. The Chartered Institute has led the way in defining and raising the standards of ecological and environmental management practice with regard to biodiversity protection and enhancement. It promotes knowledge sharing through events and publications, skills development through its comprehensive training and development programme and best practice through the dissemination of technical guidance for the profession and related disciplines.

CIEEM is a member of:

- Environmental Policy Forum
- Greener UK
- IUCN – The World Conservation Union
- Professional Associations Research Network
- Society for the Environment
- United Nations Decade on Biodiversity 2011-2020 Network

Comments from CIEEM

CHAPTER 1: INTRODUCTION

Q1 Do you have any comments on the text of Chapter 1?

The draft National Planning Policy Framework (NPPF) is the first major test of the Government's 25-Year Plan for the Environment, 'A Green Future'. In this respect we are surprised and disappointed not to see mention of the Plan anywhere in the draft NPPF. The planning system in England will be critical to implementing and delivering the ambitions of the 25-Year Plan and yet is not referenced. The revised NPPF is an opportunity to embed one of the Plan's central ambitions, that of environmental net gain, in the planning system. As currently drafted this is an opportunity that will be missed.

CIEEM's overarching concern for the draft NPPF is in the ability of local planning authorities to prepare plans and policies that meet the Government's ambitions in relation to the natural environment and to consistently deliver them through planning decisions. Many local authorities do not employ ecologists and, even if they buy in expertise to help develop their plans and policies, they may not have access to ecological expertise in relation to specific planning decisions. Research by the Association of Local Government Ecologists¹ showed a lack of confidence and competence of local authority planners to make decisions regarding impacts on biodiversity. There is a juxtaposition of the draft NPPF placing more responsibility on local authorities to protect and enhance biodiversity, when there is evidence that they may not have the expertise to do so.

This, in combination with an unregulated ecological profession, means that some unsound ecological reports are being submitted to support planning decisions and are not being scrutinised appropriately. Although many ecologists are CIEEM members, it is not a requirement to practice and we have no influence over the practice standards of those outside our membership.

CHAPTER 2: ACHIEVING SUSTAINABLE DEVELOPMENT

Q2 Do you agree with the changes to the sustainable development objectives and the presumption in favour of sustainable development?

No. Partly due to the issues raised under Chapter 1 around ecological competence in local authorities, we do not believe that it is possible for the environmental objectives to be given equal weight with economic and social objectives, and thus that a presumption in favour of "sustainable development" will simply mean that the need for development will override other concerns.

Q3 Do you agree that the core principles section should be deleted, given its content has been retained and moved to other appropriate parts of the Framework?

Q4 Do you have any other comments on the text of Chapter 2, including the approach to providing additional certainty for neighbourhood plans in some circumstances?

CIEEM is concerned at the lack of reference to 'halting biodiversity loss' in the draft NPPF. There is reference to "helping to improve biodiversity" (para. 8c), "minimising impacts and providing net gains

¹ Association of Local Government Ecologists (2013). Ecological Capacity and Competence in English Planning: What is needed to deliver statutory obligations for biodiversity? <https://www.alge.org.uk/publications-and-reports/>

for biodiversity” (para. 168d) and to “identify and pursue opportunities for securing measurable net gains for biodiversity” (para. 172b) but these are ambiguous and vague in their context.

CIEEM is concerned that ‘ecosystem services’ are not mentioned anywhere in the document. We surmise that this may be because “the benefits of natural capital” (para. 168b) are perceived to be the same thing. Ecosystem services do flow from natural capital but we would like to see them addressed individually. Ecosystem services and natural capital are not the same, and are not interchangeable.

In relation to footnote 7 (para. 11di), CIEEM advocates inclusion of Local Nature Reserves as an important statutory designation. We suggest an amendment to: “... land designated as Green Belt, Local Green Space, Local Nature Reserve, an Area of Outstanding Natural Beauty ...”. This is in keeping with the reference to Local Nature Reserves in para. 172a footnote 47 which refers to Circular 06/2005 which in turn specifies Local Nature Reserves in para. 95.

CIEEM is concerned at the vague nature of wording used in para. 8c, such as “contribute to” and “helping to”, which is unhelpful and should be more robust in order to achieve delivery of ambitions.

CHAPTER 3: PLAN-MAKING

Q5 Do you agree with the further changes proposed to the tests of soundness, and to the other changes of policy in this chapter that have not already been consulted on?

Q6 Do you have any other comments on the text of Chapter 3?

Para. 35:

- This changes the emphasis in the mitigation hierarchy. It previously suggested that compensation “may be appropriate” but now states that it “should be considered”. This is an inappropriate change of emphasis that undermines the important principle of the mitigation hierarchy.

CHAPTER 4: DECISION-MAKING

Q7 The revised draft Framework expects all viability assessments to be made publicly available. Are there any circumstances where this would be problematic?

Q8 Would it be helpful for national planning guidance to go further and set out the circumstances in which viability assessment to accompany planning applications would be acceptable?

Q9 What would be the benefits of going further and mandating the use of review mechanisms to capture increases in the value of a large or multi-phased development?

Q10 Do you have any comments on the text of Chapter 4?

Para. 42:

- We wish to see the need to address environmental impacts included within the first sentence of this paragraph. In particular, due to the seasonal nature of many ecological assessments, early consideration of such issues significantly reduces delay in the planning process.

Para. 44:

- The draft NPPF could usefully refer to sources of technical guidance that would help inform the preparation of various reports submitted in support of planning applications. Local planning authorities and applicants and their advisors should draw upon relevant published national and professional standards where these exist for any particular topic area and where they provide

useful guidance on the type and level of technical information that should be submitted with a planning application. Professional standards published by the British Standards Institution (e.g. British or ISO Standards) and by Professional Bodies (e.g. CIEEM, TCPA, ICE, RICS, ILP, CIWEM, IEMA) are normally subject to robust peer review and extensive consultation and therefore constitute good, if not best, practice on technical matters that may form an important part of a planning application.

Para. 57:

- The word “*reasonable*” needs to be defined in this context. There are ongoing issues with statements of compliance (i.e. confirming that mitigation measures have been installed) because some planners consider this unreasonable.

Para. 59:

- States that “*enforcement action is discretionary*” but this should not be the case if a suspected breach undermines plans and policies designed to protect important assets, such as the natural environment.

CHAPTER 5: DELIVERING A WIDE CHOICE OF HIGH QUALITY HOMES

Q11 What are your views on the most appropriate combination of policy requirements to ensure that a suitable proportion of land for homes comes forward as small or medium sized sites?

Q12 Do you agree with the application of the presumption in favour of sustainable development where delivery is below 75% of the housing required from 2020?

Q13 Do you agree with the new policy on exception sites for entry-level homes?

Q14 Do you have any other comments on the text of Chapter 5?

Para. 73:

- CIEEM would like to see “*environmental impacts*” inserted into the penultimate sentence as well as “*scope for net environmental gains*”, because the latter should not be used to ignore the former.

Para. 81c:

- In its current form, this gives free rein for developers to convert barns outwith the planning system. CIEEM would like to see an additional clause in this paragraph about environmental impacts that cannot be adequately avoided, mitigated or as a last resort compensated.

CHAPTER 6: BUILDING A STRONG, COMPETITIVE ECONOMY

Q15 Do you agree with the policy changes on supporting business growth and productivity, including the approach to accommodating local business and community needs in rural areas?

Q16 Do you have any other comments on the text of chapter 6?

Para. 83c:

- It is unclear what “a poor environment” means. This is unclear and should be removed.

Para. 84c:

- This point should be amended to: “*sustainable rural tourism and leisure developments which respect the character of the countryside and do not damage important environmental assets; and”*”

CHAPTER 7: ENSURING THE VITALITY OF TOWN CENTRES

Q17 Do you agree with the policy changes on planning for identified retail needs and considering planning applications for town centre uses?

Q18 Do you have any other comments on the text of Chapter 7?

CHAPTER 8: PROMOTING HEALTHY AND SAFE COMMUNITIES

Q19 Do you have any comments on the new policies in Chapter 8 that have not already been consulted on?

Q20 Do you have any other comments the text of Chapter 8?

It is disappointing not to see the human health and well-being benefits of green infrastructure mentioned in this chapter.

CHAPTER 9: PROMOTING SUSTAINABLE TRANSPORT

Q21 Do you agree with the changes to the transport chapter that point to the way that all aspects of transport should be considered, both in planning for transport and assessing transport impacts?

Q22 Do you agree with the policy change that recognises the importance of general aviation facilities?

Q23 Do you have any other comments on the text of Chapter 9?

CHAPTER 10: SUPPORTING HIGH QUALITY COMMUNICATIONS

Q24 Do you have any comments on the text of Chapter 10?

CHAPTER 11: MAKING EFFECTIVE USE OF LAND

Q25 Do you agree with the proposed approaches to under-utilised land, reallocating land for other uses and making it easier to convert land which is in existing use?

Q26 Do you agree with the proposed approach to employing minimum density standards where there is a shortage of land for meeting identified housing needs?

Q27 Do you have any other comments on the text of Chapter 11?

Para. 118:

- CIEEM is pleased to see references to multi-benefits from land and the potential value of undeveloped land to the environment.

CHAPTER 12: ACHIEVING WELL-DESIGNED PLACES

Q28 Do you have any comments on the changes of policy in Chapter 12 that have not already been consulted on?

Q29 Do you have any other comments on the text of Chapter 12?

Para. 126:

- In supporting the creation of “*high quality ... places*”, the planning system must also deliver the benefits provided by a healthy natural environment to the social and economic aspects of local communities. Well-designed and high-quality places work with the natural environment to, for example, reduce heat island effects, reduce high volume rainfall runoff, provide food and shelter for pollinators of food crops, add value to property, and contribute to human health and well-being.

Para 126c:

- CIEEM suggests amending this clause to insert “*and natural*” between “*built*” and “*environment*”.

CHAPTER 13: PROTECTING THE GREEN BELT

Q30 Do you agree with the proposed changes to enable greater use of brownfield land for housing in the Green Belt, and to provide for the other forms of development that are ‘not inappropriate’ in the Green Belt?

Q31 Do you have any other comments on the text of Chapter 13?

Para. 141:

- CIEEM suggests that Nature Improvement Areas should be included as offering opportunities for improving the environment around towns.

CHAPTER 14: MEETING THE CHALLENGE OF CLIMATE CHANGE, FLOODING AND COASTAL CHANGE

Q32 Do you have any comments on the text of Chapter 14?

Para. 148:

- CIEEM is pleased to see that, in relation to planning for climate change, there is now reference to biodiversity.

Q33 Does paragraph 149b need any further amendment to reflect the ambitions in the Clean Growth Strategy to reduce emissions from buildings?

CHAPTER 15: CONSERVING AND ENHANCING THE NATURAL ENVIRONMENT

Q34 Do you agree with the approach to clarifying and strengthening protection for areas of particular environmental importance in the context of the 25 Year Environment Plan and national

infrastructure requirements, including the level of protection for ancient woodland and aged or veteran trees?

Q35 Do you have any other comments on the text of Chapter 15?

Overall, CIEEM is pleased with the change in emphasis on the natural environment. We are pleased to see the updating of “*where possible*” in the original NPPF to “*should*” in this draft. However, CIEEM would believe that this change should be made even stronger by using “*will*”, as is currently being consulted on in the Wales Planning Policy consultation.

Para. 168:

- CIEEM would like to see ‘ecosystem services’ referenced in this paragraph.
- We are uncertain as to why planning policies should contribute to and enhance the natural and local environment? Why ‘local’ when the section refers to nationally designated sites. CIEEM suggests new text: “*Planning policies and decisions will contribute to and enhance the natural environment and ecosystem services by:*”.
- CIEEM would like to see a clause included in this paragraph to require ecological impact assessments for all developments that might have an impact upon biodiversity.

Para. 168e:

- This should include reference to resource supply (e.g. water abstraction) rather than just pollution and land instability.

Para. 172b:

- The terms “*priority habitat*” and “*priority species*” are not defined. These terms have been used in various policy documents and within legislation, and have different meanings in each case. The terms in this case, are likely to relate to the UK Biodiversity Action Plan, which listed Priority Habitats and Priority Species. However, this document is no longer relevant and the terms have generally been superseded by the terms ‘Habitat/Species of Principal Importance for the Conservation of Biodiversity’. CIEEM has used and defined the terms ‘priority habitat’ and ‘priority species’ in its *Guidelines on Preliminary Ecological Appraisal*. The definition used in this case is much wider, and includes Local BAP species, for example.
- The NPPF should either align with the terms ‘Habitat/Species of Principal Importance for the Conservation of Biodiversity’ or should define what it means by ‘priority habitat’ and ‘priority species’.

Para. 173a:

- There is no definition of what is meant by “*significant harm*” in the context of this policy. This is problematic as the threshold level of ‘harm’ for when compensation is required, or for when planning permission should be refused, is entirely subjective and open to individual interpretation. The threshold may be applied very differently in neighbouring local authority areas, even where there is no fundamental difference in local biodiversity resources between the two. This can lead to one local authority requiring considerably more in terms of compensation than another. There is no useful definition of ‘significant harm’ in existing industry guidance, policies or legislation. The EIA Regulations does not define the term ‘significant effect’. CIEEM’s *Guidelines on Ecological Impact Assessment* define a significant effect as one worthy of consideration by a determining authority, but specifically states that

its definition of a significant effect does not mean an effect so great that planning permission should be refused – this is clearly at odds with the use of the term ‘significant harm’ in this policy.

- The NPPF should either define the term ‘significant harm’ or have an explanatory footnote relating to how this should be determined. CIEEM would be happy to contribute to formulating a definition.

Para. 173a:

- This policy also fails to mention cumulative effects, which should be specifically considered.
- This paragraph should be amended to: *“if significant harm to biodiversity resulting from a development (either alone or cumulatively with other projects) cannot be avoided ...”*

Para. 173b:

- This policy needs to more clearly define what it means by an adverse effect on a SSSI. The first sentence could be interpreted as meaning any ‘adverse’ effect on the area of land within the boundaries of a SSSI. In practice there could be many adverse effects that do not affect the reasons for which the SSSI was designated, or otherwise qualify it to be a SSSI.
- This policy also uses the phrase *“in combination with other developments”*, which is likely to cause confusion as ‘in combination’ is a term used in HRA for European Sites (not relevant to SSSIs and their reasons for designation), but the use in HRA is *“in combination with any other plans or projects”* and is therefore not limited to developments.
- This paragraph should be amended to: *“development on land within or outside a Site of Special Scientific Interest, and which is likely to have an adverse effect on the reasons for its designation (either alone or cumulatively with other projects), should not normally ...”*.

Para. 173c:

- This policy includes reference to a *“suitable mitigation strategy”* for developments resulting in the loss or deterioration of irreplaceable habitats. It would be helpful to provide further detail here to strengthen the policy, as this term is open to interpretation.
- This paragraph should be amended to: *“development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland) should be refused, unless there are wholly exceptional reasons and demonstrable steps have been taken to avoid and minimise the impacts as far as possible, and appropriate compensatory measures have been secured and detailed in a robust mitigation strategy. Where development...”*.
- This policy, as drafted, is also problematic as it seeks to separate out the treatment applied to individual veteran trees from that applied to ancient woodland (in terms of how important a development needs to be to count as an exception). Veteran trees could otherwise be argued to qualify as ‘irreplaceable habitats’. There are other possible examples of irreplaceable habitats, such as ancient parkland, ancient hedgerows, a variety of bog habitats, agriculturally unimproved grassland, etc. The current drafting of this policy now opens up the question of how these should be treated– as per ancient woodland or as per veteran trees?
- The policy does not seem to require compensation for the loss of veteran trees. It would perhaps be simpler to include veteran trees with ancient woodland as an example of an

irreplaceable habitat, and delete the sentence “Where development would involve the loss of individual aged or veteran trees ... would clearly outweigh the loss”.

CHAPTER 16: CONSERVING AND ENHANCING THE HISTORIC ENVIRONMENT

Q36 Do you have any comments on the text of Chapter 16?

CHAPTER 17: FACILITATING THE SUSTAINABLE USE OF MINERALS

Q37 Do you have any comments on the changes of policy in Chapter 17, or on any other aspects of the text of this chapter?

Minerals sites are not infrequently of some ecological interest. The NPPF needs to include reference, in para. 200f, to the need to demonstrate appropriate mitigation where impacts occur.

CIEEM is pleased to see that there is no planning permission for peat extraction included here.

Q38 Do you think that planning policy on minerals would be better contained in a separate document?

Q39 Do you have any views on the utility of national and sub-national guidelines on future aggregates provision?

TRANSITIONAL ARRANGEMENTS AND CONSEQUENTIAL CHANGES

Q40 Do you agree with the proposed transitional arrangements?

Q41 Do you think that any changes should be made to the Planning Policy for Traveller Sites as a result of the proposed changes to the Framework set out in this document? If so, what changes should be made?

Q42 Do you think that any changes should be made to the Planning Policy for Waste as a result of the proposed changes to the Framework set out in this document? If so, what changes should be made?

GLOSSARY

Q43 Do you have any comments on the glossary?

The following terms should be added to the glossary:

- Biodiversity net gain
- Ecosystem services
- Environmental net gain
- Natural capital