



NEWS

Commercial planning news, August 2018

01 Aug 2018

Contents

- 01 **Revised National Planning Policy Framework and updated planning practice guidance published**
- 02 **The Combined Authorities (Spatial Development Strategy) Regulations 2018**
- 03 **The New Towns Act 1981 (Local Authority Oversight) Regulations 2018**
- 04 **Variety of factors relevant to assessing setting of listed building and impact of proposed development on that setting**
- 05 **National Green Belt policy – visual impact on openness should be considered**
- 06 **National Infrastructure Commission publishes first National Infrastructure Assessment**

Share



Headline news

Revised National Planning Policy Framework and updated planning practice guidance published

Shortly before recess the Government published the revised National

Planning Policy Framework (NPPF).

The Communities Secretary announced the publication of the NPPF in a written statement to Parliament, saying:

“The new framework is fundamental to strengthening communities and to delivering the homes communities need. It sets out a comprehensive approach to ensuring the right homes are built in the right places and of the right quality, at the same time as protecting our precious natural environment”.

The Communities Secretary went on to emphasise that “progress must not be at the expense of quality or design”, and referred to the visual tools and design guides and codes that are promoted by the NPPF.

Updates to Planning Practice Guidance regarding viability and housing and economic development needs assessments were published on 24 July, with several more updates to follow – notably regarding town centres and heritage assets.

Lichfields has produced a blog highlighting 11 key changes made to the NPPF following consultation (see link below).

[HM Government, Revised National Planning Policy Framework Collection \(including PPG updates\), 24 July 2018](#)

[Lichfields, Revised NPPF: a new beginning at the end of a long and winding road?, 25 July 2018](#)

[Parliamentary Hansard, written statement regarding housing, 24 July 2018](#)

[Return to contents](#)

Quote of the month



I am determined, however long I am given in this job, to make sure that neighbourhood plans are landed extremely well and are adopted by as much of the country as possible, and that local people know they can rely on them to make sure that planning is done with them and not to them

Housing Minister Kit Malthouse MP, during a parliamentary debate on topical questions related to the Ministry of Housing, Communities and Local Government, 23 July 2018

Other news

The Combined Authorities (Spatial Development Strategy) Regulations 2018

On 12 July, the Combined Authorities (Spatial Development Strategy) Regulations 2018 were laid before Parliament; they come into force on 9 August 2018. The Regulations confer a number of powers set out in Part VIII of the Greater London Authority Act 1999, enabling eligible authorities the powers to develop statutory spatial development strategies. As of yet, three Combined Mayoral Authorities have been granted statutory powers to develop spatial development strategies; Greater Manchester, Liverpool City Region and the West of England. The Regulations outline the details needed for the form and content of strategies, the procedural process authorities must follow, as well as details on the required documents which must accompany said spatial strategies.

[The Combined Authorities \(Spatial Development Strategy\) Regulations 2018](#)

[Return to contents](#)

The New Towns Act 1981 (Local Authority Oversight) Regulations 2018

The draft New Towns Act 1981 (Local Authority Oversight) Regulations 2018 that were laid in Parliament on 4 June have been approved by Parliament and came into force on 24 July. As previously reported by Lichfields, the new Regulations make provision for the local oversight of new town development corporations.

[The New Towns Act 1981 \(Local Authority Oversight\) Regulations 2018](#)

[Lichfields' Planning News, July 2018](#)

[Return to contents](#)

Variety of factors relevant to assessing setting of listed building and impact of proposed development on that setting

In *Catesby Estates Ltd v Steer* in the Court of Appeal, a High Court judgment has been overturned which gave a very wide interpretation of the 'setting' of a listed building, in relation to s66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

In the Court of Appeal, Lindblom LJ defined the issue as being whether the Inspector had erred in law in his decision that was being challenged, in his understanding of the concept of the 'setting' of a Grade I listed building (*Kedleston Hall*).

Lindblom LJ allowed the appeal against the High Court ruling, concluding that the Inspector had not demonstrated any error of law, in finding that

neither the setting of the listed building (a hotel), nor that of the conservation area, would be harmed by the development. The inspector's approach had been 'both consistent and correct', him having taken a lawful approach to identifying the setting of Kedleston Hall, which did not neglect historical, social and economic considerations. His approach was not restricted to visual and physical considerations alone, and it was comprehensive and complete – Lindblom LJ concluded:

'I think his relevant conclusions are unassailable.'

According to Lindblom LJ's view of the Inspector:

'His approach to identifying the setting of each heritage asset he had to consider was, in my view, consistent and sound. So were his conclusions on the likely effect of the proposed development – or its lack of effect – on the setting in question and its impact – or lack of impact – on "significance". At no stage did he exaggerate the importance of physical and visual considerations, or unduly diminish the significance of the historical, the social and the economic.'

The Inspector's original decision was therefore restored.

[Catesby Estates Ltd v Steer](#)

[Return to contents](#)

National Green Belt policy – visual impact on openness should be considered

A new High Court judgment, *Euro Garages Limited v Secretary of State for Communities and Local Government*, cites two other familiar Green Belt 'openness cases', those of *Turner v Secretary of State for Communities and Local Government* and *Samuel Smith Old Brewery (Tadcaster) v North Yorkshire County Council*.

The Judge in *Euro Garages* drew all the arguments together from these previous cases and the one before him, commenting on the National Planning Policy Framework Green Belt policy in para. 89 as follows (para. 31 of the judgment):

'Pulling these points together, the policy requires the decision maker to consider and make an assessment, under bullet point [6], of whether the openness of the Green Belt is impacted or harmed by the proposals to a greater extent than that openness has already been impacted. That is an open-textured assessment and there is no check list to be gone through but, where openness of the Green Belt is in issue, visual impact, as well as spatial impact, requires consideration, subject to a margin of appreciation.'

He went on to conclude before quashing the Inspector's decision (para. 42):

'In my judgment, therefore, what the Inspector in fact did was treat any change as having a greater impact on the openness of the Green Belt, rather than considering the impact or harm, if any, wrought by the change. Although the Inspector appeared to set out the right test, she then either

went wrong in her interpretation of the policy or failed to apply the policy.

[Euro Garages Limited v Secretary of State for Communities and Local Government](#)

[Turner v Secretary of State of Communities and Local Government](#)

[Samuel Smith Old Brewery \(Tadcaster\) v North Yorkshire County Council](#)

[Return to contents](#)

National Infrastructure Commission publishes first National Infrastructure Assessment

On 10 July, the National Infrastructure Commission (NIC) published its first National Infrastructure Assessment (NIA).

The Assessment calls for the development of integrated strategies for transport, employment and housing, which should be supported through the devolution of decision-making and funding to metro mayors and city leaders.

The final chapter, 'Next Steps', also picks up on the current debate on land value capture, recommending that to improve funding and financing arrangements for infrastructure projects, to ensure that they are 'paid for at the lowest whole life cost', there is a requirement for expanding and strengthening the range of mechanisms for capturing a share of the increases in land value to finance future infrastructure schemes, as well as dropping the pooling restrictions on developer contributions.

The next step is for the Government to lay the Assessment before Parliament, and to respond to the recommendations within six months (with a final deadline of a year).

[National Infrastructure Commission, National Infrastructure Assessment](#)

[Return to contents](#)

The Lichfields perspective



The revised NPPF has a much more housing and planned focus than NPPF 2012, but there are important changes for other development sectors too. Of the changes in the final version compared with the draft, of particular note are amendments relating to viability assessments, small sites, and assessment of the harm to designated heritage assets.

Giorgio Wetzl, Policy Researcher

Disclaimer: This publication has been written in general terms and cannot be relied on to cover specific situations. We recommend that you obtain professional advice before acting or refraining from acting on any of the contents of this publication. Lichfields accepts no duty of care or liability for any loss occasioned to any person acting or refraining from acting as a result of any material in this publication. Lichfields is the trading name of Nathaniel Lichfield & Partners Limited. Registered in England, no.2778116

Subscribe

Receive our latest thinking direct to your inbox.

I want to receive... Blog posts Insights News

I have read and agree to Lichfields' [privacy notice](#)

SUBMIT

LICHFIELDS

OUR STORY

BLOG

CAREERS

CONTACT

PROJECTS

INSIGHTS

PRODUCTS

PEOPLE

NEWS



© Nathaniel Lichfield & Partners Ltd 2018

Registered office:
14 Regent's Wharf
All Saints Street
London N1 9RL

[Privacy notice](#)

Website by:
JWDK
GW+Co