



Response to Ministry of Housing, Communities and Local Government: National Planning Policy Framework May 2018

1. The Open Spaces Society (OSS) was founded in 1865 and is Britain's oldest national conservation body. It campaigns to protect common land, village greens, open spaces and public paths, and people's right to enjoy them.
2. The society welcomes the opportunity to respond to the National Planning Policy Framework (NPPF) draft text consultation and responded to the Housing White Paper in 2017.
3. The OSS is concerned that the draft text focuses primarily on housing development. There should be requirements to create places with access to open spaces which benefit public health and well-being. Green infrastructure should be planned at the outset.
4. The OSS has a particular interest in the local green space designation (LGS). In April 2011, we published 'A Framework for Green Spaces' setting out what the proposed new green space designation should achieve. We urged that the designation should give permanent protection and must place on the local authority a duty to protect the land, together with powers of enforcement, through the courts if necessary.

In March 2015 we launched a tool-kit to assist local planning authorities and the public to protect open space.

We remain concerned that the criteria for designating land as an LGS, in paragraphs 100 to 102 (current NPPF 76 to 78), are not defined sufficiently and, as there is no prescribed process, there is no consideration of public access. Management or enforcement of the designation remains under-used, resulting in areas valued by local communities remaining unprotected and vulnerable to development. The protection afforded is only stated to be similar to that of the green

belt along with changes to local plan requirements, we are concerned that the LGS designation will be further undermined.

These issues should have been re-visited as part of any amendments to the current NPPF. Here is a missed opportunity to spell out the criteria for designating and a means of protecting local green space.

There should be a requirement on new developments to designate new open space as LGS.

5. The main problem remains that there is little guidance (apart from repetition of the wording in the NPPF) about the designation of LGS on the planning guidance website in the PPG Open space, sports and recreation facilities, public rights of way and local green space.
6. We are receiving increasing numbers of inquiries from the public about the process. It is not straightforward as there is no prescribed process so each authority may have a different interpretation of the wording of the criteria and a different application process. Once a submission has been made for LGS, there is nothing to stop a planning application being considered and determined, which undermines the LGS process. Developers are now challenging LGS policies in plans, further undermining the process.
7. Alternatively developers should be required to voluntarily register any new open space forming part of a development as a town or village green, (TVG) to permanently protect it under the Commons Act 2006.
8. The status of land that is registered as common land or TVG should be regarded as a material consideration for planning purposes as currently for rights of way.

Common land is vital for biodiversity, landscape, recreation and of huge importance to cultural heritage. TVGs are equally important for health and well-being of local communities.

Both commons and TVGs should be included in the definitive list at Footnote 7. If the list only includes some but not all protected areas this will put open spaces, common land, TVGs and other environmental assets at risk, being regarded by

developers as 'fair game'. The planning system should not duck out of the responsibility to protect such places only because there is a separate regime for regulating works on common land: that regime should be regarded as a last resort, not a substitute for protective planning policies.

9. The aims of the 25-year Environment Plan must be embedded in the NPPF to ensure successful delivery.

Responses to the consultation that cover the remit of the society are below. Chapters 1, 2, 3, 4, 5, 8, 11, 12, 13, 14 and 15 have been commented on.

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Chapter 1: Introduction

The society welcomes the statements on the place of the NPPF in the planning process. The new layout provides helpful clarity on the document as a whole.

Chapter 2: Achieving sustainable development

The society welcomes the attempt to provide more detail of the government's position on the meaning of sustainable development within the planning system in England.

The society welcomes the reference to open space under the 'social' objective.

It is essential that green infrastructure is planned from the outset and afforded protection for the health and well-being of local communities.

In the society's response to the Housing White Paper (Question 4) concerns were raised about the apparent change in the status of the policies from a suggested (but not exclusive) to a definitive list, now footnote 7.

This may have the unintended consequence that open space and other important environmental assets will be more vulnerable to development. In addition, land designated as common land in upland and lowland England has unique and distinctive qualities. Commons are important for biodiversity, landscape, recreation and archaeology, as well as, in some areas the viability or profitability of farming enterprises. Commons are of vital importance to our cultural heritage and should be recognised under footnote 7 in the same way as ancient woodland.

Similarly, land registered as a town or village green provides irreplaceable benefits for the health and well-being of local communities as well as ecological benefits and should be included in the list.

If there are no changes to the proposed draft text it will reduce the significance of other important environmental, landscape, heritage policy considerations within the NPPF as a whole. The NPPF should make clear the appropriate weight to be given to wider environmental assets.

Chapter 3: Plan-making

The society supports the inclusion of green infrastructure as one of the strategic policies that local plans must have regard to.

The society is concerned that the changes to the plan-making process, whereby local plans are no longer a specific requirement, will have a detrimental impact on the public's ability to submit designations to protect land as LGS because this can only

be carried out currently as part of the local plan or neighbourhood plan process. This must be addressed as part of any change to the NPPF.

Chapter 4: Decision-making

The society welcomes the clear statement in the NPPF that planning law requires applications for planning permission to be determined in accordance with the development plan, unless material conditions indicate otherwise.

However due to the importance of registered common land (see response in chapter 2) in respect of its biodiversity, landscape, public access and for farming viability it is essential that such land is considered to be a material consideration in the way that public rights of way are regarded. TVGs provide health, well-being and ecological benefits and should be regarded as material considerations for planning purposes. Without this, common land and TVGs become increasingly vulnerable to development.

Chapter 5: Delivering a sufficient supply of homes

At present local plans usually include policies used to assess applications for development on small sites not allocated in the plan. However, if land is outside the settlement boundaries, open space could be vulnerable.

In particular, due to the need for housing and the weight to be placed on entry level sites, this will result in loss of open space and wider environmental assets not being included in the new footnote 7.

Chapter 8: Promoting healthy and safe communities

Open space, common land and TVGs provide health and well-being benefits for the public, whether as part of a local community or the wider population.

However, it is disappointing that only safe and accessible green infrastructure is given as an example of providing local health and well-being benefits.

There is a missed opportunity to amend the NPPF to ensure the process to designate land as LGS is more transparent and accessible. The criteria are rather impenetrable to the extent that in the London of Croydon (February 2018), all the proposed areas of LGS were deleted because in the inspector's opinion the criteria had not been satisfied. There is little guidance and developers are resorting to challenging LGS in plans, undermining the process as a whole. The society is receiving increasing

numbers of inquiries from the public about the process. It is not straight-forward as there is no prescribed process so each authority may have a different interpretation of the criteria and a different application process. Developers should be required to designate open space provided as part of a development as LGS for the health and well-being of the local community.

We welcome the retention of para.99, seeking protection for and enhancement of rights of way and access. We propose that the example of better facilities for users, 'by adding links to existing rights of way networks including National Trails' is supplemented, 'and upgrading existing rights of way to accommodate all types of un-motorised users'. This will make clear that the best possible use should be made of rights of way affected by development, to enable pedestrians, cyclists, horse riders and carriage drivers to make sustainable use of the network without the need to use busy roads.

Chapter 11: Making effective use of land

The effect of the proposed change to the NPPF would result in housing being developed on brownfield sites unless there are overriding conflicts with the Local Plan or the NPPF which cannot be mitigated. These proposals for a presumption in favour of brownfield land could, the society believes, mean that provision of open space in both urban and rural areas will not be considered properly. In addition, the ability to grant permission in principle for development sites included on a register of land, and sites included in any other 'qualifying document' such as a Local Plan, has already resulted in additional 'trigger events' (situations whereby a TVG application is prohibited) restricting further the right to apply to protect land as a TVG. It would appear that if brownfield land of high environmental value is included, there will be added pressure to develop these sites which are often places for recreation and wildlife, particularly in urban areas.

Chapter 12: Achieving well-designed places

Given the importance of green infrastructure to health, well-being and environmental benefits, it should be considered at the start of any development proposals.

There should be better protection of open space within new developments and a requirement that such land is designated as LGS, or alternatively is registered as a TVG.

Chapter 13: Protecting green-belt land

The designation of land as LGS itself provides protection similar to that of green belt. Our concern is that where land has been designated as LGS its protection will be weakened by the proposals to allocate sites for development in the green belt, through neighbourhood plans. The proposals are likely to result in weakening the protection of green belt and protected landscapes and be detrimental to the public who will lose vital areas for access and recreation.

The society agrees that green belt should retain its special protections, and greater opportunity should be taken to enable it to provide green space for recreation.

The fact that some green belt land is of poor environmental quality should not be an excuse for developing it. Consideration should be given to improving its environmental features and increasing its accessibility and recreational benefits.

The society supports the premise that green belt should only be developed in exceptional circumstances.

If green belt land is given over to development, local policies should require the impact to be offset by mitigating improvements to the environmental quality and accessibility of remaining green belt land.

Additional green, accessible space should be made available, where there is any new development on green belt land.

Chapter 14: Meeting the challenge of climate change, flooding and coastal change

Provision of open space and green infrastructure which are adequately protected is crucial to help combat the increase in carbon and energy. Flood plains should also be considered as part of this green infrastructure.

In order to meet the aims of the 25-year Environment Plan it is vital that Green Infrastructure is given high priority within the NPPF so that local authorities will provide and maintain it. The NPPF should include reference to the requirements of the 25-year plan in relation to the new standards for green infrastructure.

Chapter 15: Conserving and enhancing the natural environment

The society welcomes the attempt to clarify and strengthen protection for areas of particular environmental importance in the context of the 25-year Environment Plan. However, the society believes there needs to be direct reference to the 25-year plan to enable the plan's aims to be fulfilled.

For the reasons above, common land should be included if the definitive list is retained but the society believes it is more appropriate to retain the current footnote (in paragraph 11) rather than the new footnote 7.

Alternatively, a footnote should be included at paragraph 173 b) after the term Site of Special Scientific Interest as follows: Common land of equivalent ecological value to SSSIs should be considered subject to the policies for designated SSSIs.

The society welcomes the new paragraph 168 which requires planning authorities to include policies for the protection of valued landscapes. However, the society objects to the removal of existing paragraphs 115 and 116 in the current NPPF, in particular the sentence 'Great weight should be given to conserving landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to landscape and scenic beauty'. This is something that planning inspectors frequently refer to when rejecting appeals against refusal of planning permission in National Parks and Areas of Outstanding Natural Beauty.