

Comments with regard to Draft *Framework24* and accompanying Ministerial Statement

Ministerial Statement

The Ministerial Statement was made on 30 July 2024. The new Labour Government declared that boosting the delivery of renewables will be critical to meeting the Government's commitment to zero carbon electricity generation by 2030. They are therefore proposing to, inter alia, boost the weight that planning policy gives to the benefits associated with renewables.

It is contended that the Ministerial Statement should be a material consideration in the determination of the planning application on the basis that it indicates the direction of travel of national planning policy. According to the Court of Appeal in *Cala* [2011] EWCA Civ 639, a prospective change in planning policy can be a material consideration, and the weight attributed to such a change depends on its nature and impact. Whether the change is introduced through new legislation, amendments to existing legislation, or administrative actions, its significance is determined by how it aligns with the evolving policy direction. Given the strong national focus on renewable energy highlighted in the Ministerial Statement, and its potential to influence planning policy significantly, we consider it appropriate to attribute significant weight to this Statement in the decision-making process.

Draft Framework24

The draft Framework24 was published on 30 July 2024 and is open for consultation until 24 September 2024.

With the current NPPF forming the strongest material consideration in decision-making, it is accepted that the weight to be attached to the draft NPPF is more limited – it is still subject to consultation and may change. That said, the Inspector in respect of Appeal Reference. APP/J4423/A/11/2153926 in relation to the draft which became the 2012 iteration of the NPPF stated ‘the draft NPPF is subject to public consultation and may change, which limits the weight that can be accorded to it’. However, given the commitment the Government has already shown to enshrining these changes, our view is that moderate weight should currently be afforded to the draft NPPF in the decision-making process.

This point is reinforced by the text of the consultation itself which sets out at Chapter 1 paragraph k that one of the specific changes that the Government proposes to make immediately following the consultation (considered vital to deliver the Government’s commitments to achieve economic growth) is to “*support clean energy and the environment, including through support for onshore wind and renewables.*” Further, the Government’s Policy Objectives set out at Chapter 2 of the consultation include unlocking new sources of clean energy and supporting green energy.

Summary of proposed Framework24

The principles espoused at paragraph 8 under the heading “*an environmental objective*” remain unaltered. Emphasis continues to be given to moving to a low carbon economy.

Section 4.Decision Making is unaltered save for paragraph numbers.

Section 11. Making effective use of land is substantially unchanged so far as it might relate to the form of development in question. Whilst the text is predominantly focused on urban development, paragraph 122 a) is unaltered in its reference to encouraging development that achieves net environmental gain. Whilst 122 c) gives substantial weight to the development of under-utilised land and buildings, it implicitly does not seek to preclude other land opportunities.

Section 13. Protecting Green Belt land contains some amendments. New paragraph 152 refers to development in Green Belt (including housing, commercial and other development) as not being inappropriate in specified circumstances. The development as proposed does not fall into any of the three criteria described.

Paragraph 155 provides new text. It refers to major development including allocated sites and sites permitted through development management and to the requirement for specified contributions described as.

- the provision of affordable housing – not applicable in this instance
- necessary improvements to local or national infrastructure – the proposed development will deliver such improvements as there is presently unutilised capacity at the Bishops’ Stortford Substation which distributes electricity to the town and its hinterland. As the development will feed directly into the Substation (including the battery storage element which will work in conjunction with the solar generation but which will also have capacity to receive surplus energy generated elsewhere in the network) and this Substation serves the local area, there is a clear nexus between the energy generated and stored on the site and meeting the needs of the local community for renewable energy which is stable and can address daily fluctuations in demand. It follows that the proposed development accords with the intention of draft paragraph 155 b).
- the provision of new, or improved green spaces accessible to the public. This is proposed as a universal requirement on all major development and is met by the proposed development insofar as it does not diminish public access to the existing or permissive rights of way across the Wickham Hall Estate and moreover creates an area of wildlife value to which the public will have additional access. This criterion is therefore also fully addressed.

There are no relevant standards at local or national level that prescribe the provision of green space relative to the form of development proposed. The application is not therefore in conflict with draft paragraph 156.

New paragraph 157 and Annex 4 are also not relevant.

Section 14. Meeting the challenge of climate change, flooding and coastal change proposes some minor amendments and sets out the Government’s support for the transition to a low carbon future, and renewable and low carbon energy and associated infrastructure.

Paragraph 164 is proposed to be amended. The current Framework requires local planning authorities, when determining applications for renewable energy development, to have regard to three criteria. The amended guidance states that:

*local planning authorities **should support** planning applications for all forms of renewable and low carbon development.* (our emphasis).

There is therefore a strengthening in the emphasis of the expectation that renewable energy scheme will be granted.

Whilst the three criterion remain they are also consequentially amended. Criterion a) is relevant in that whilst the revision continues to not require the need for renewables to be demonstrated, it is now an obligation on the decision maker to:

*give **significant weight** to the proposal's contribution to renewable energy generation and a net zero future* (our emphasis).

This is an important step up in the value to be attached to renewable and low carbon energy schemes as the significant weight which must be attached to them must be weighed in this instance against the significant weight which would normally be attached to any harm perceived to the Green Belt in relation to paragraphs 149 and 150 of the draft (remaining unaltered save for paragraph numbers)

Footnote 63 is proposed to be amended to remove the significance of retaining higher quality land specifically for food production. Whilst there remains a preference for development of land of poorer quality where it is in agricultural use the Applicant's Statement in respect of BMV and farming set out the substantial reasons why the Applicant considers that the land is relatively of poorer quality in the catchment area of the Substation and the farming context which it is also considered relevant to the weight that should be given the application.

Paragraph 161 directs authorities to identify sites for renewable and low carbon development when preparing Local Plans; a clear indication of the need for such developments.

There are no other proposed changes which are considered likely to have a consequence for the determination of the application.

Conclusion

Overall, whilst draft *Framework24* continues to refer to some elements of renewable energy as being inappropriate development in the Green Belt, the strengthened emphasis on amended paragraph 164 adds further weight to the consideration of *very special circumstances* which arise for the development of a solar farm in the Green Belt having regard to the Framework read as a whole and to the substantial weight of Government policy and ministerial guidance as outlined in the Applicant's Planning Statement (Chapters 1 and 7)