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NPPF Consultation Response

Water UK's overview of main issues affecting the water sector

Introduction

Water UK is the trade body for the UK's water industry, representing the sector in discussions with government, non-government organisations, regulators and international forums, and encouraging innovative policies that tackle big issues.

We welcome the opportunity to comment on the Government's proposed changes to the National Planning Policy Framework (NPPF). Given the breadth of the consultation, rather than answering specific questions our response sets out the most important sector-wide themes emerging from discussions about the government's proposed changes to the NPPF. We also highlight related barriers caused by planning and development that reduce water companies' ability to protect the environment and supply clean and plentiful water. Our response is, therefore, a complement to individual companies' submissions, many of which will address more detailed aspects.

Our interest in planning reform is two-fold.

First, the provision of sustainable water and sewerage services is essential for achieving the Government's ambitious growth agenda. Water is a key enabler of economic growth and environmental sustainability is a core objective for the water sector. As a country, we are facing a five billion litre-per-day deficit in water supplies by 2050, with around half of this driven by the need to keep more water in the environment. Public expectations on water quality are focusing lots of attention on our combined sewer networks and rainwater management, which has seen companies propose around £11bn investment from 2025. However, sustainable water management cuts across many different sectors and a regulatory siloes – water companies are not the only actors. Poorly planned housing developments or inappropriately sited and designed industrial installations may serve to exacerbate issues of water security or quality. To avoid inconsistent policy signals, **Government must ensure that the environmental sustainability objectives of water policy is reflected as core aim of the planning system as a whole and the NPPF in particular.**

Secondly, our overarching observation on the NPPF is the glaring omission of water infrastructure as critical infrastructure which underpins all other growth, including housing and nascent industrial sectors. We would urge Government to reflect the fundamental need to plan for sustainable water and sewerage services as a key objective of the planning system, particularly as the sector embarks on a record investment programme to deliver new sustainable supplies of water and reduce environmental impact from 2025 onwards.

Already in parts of south and east of England (and beyond), strategic water and sewerage capacity is insufficient to sustainably accommodate growth ambitions, particularly in the non-household sector. The water sector will be a key enabler to the Government's growth ambitions, though the planning system (as well policy and regulation more broadly) has to support the rapid roll-out of much-needed infrastructure. Planning policy and practice currently acts as a barrier to infrastructure, therefore a barrier to growth. Reforming the NPPF offers some opportunities to address this. We offer some further reflections on the proposals within the consultation, which are grouped to match the corresponding sections of the NPPF.

The water sector views on NPPF reforms

Supporting water and sewerage infrastructure

While government is increasingly recognising the need for faster planning processes in support of developers, we do not think anything like enough attention has been paid to enabling the supporting infrastructure (e.g. water and wastewater pipes, streetworks and, crucially, capacity at treatment works) – without which that growth cannot occur.

Water and sewerage undertakers are not typical commercial developers. Much of our investment programme is determined by statutory environmental obligations (e.g. new reservoirs to reduce abstractions elsewhere) or the requirement to expand or connect new customers to the network. In both cases, the need for, timing and location of, new infrastructure is fully determined by external factors. Water Resource Management Plans, Drainage and Wastewater Management Plans and a host of other strategic planning documents define the programme. Once agreed by the regulator Ofwat, companies are subject to penalties for late or non-delivery. Given the drivers and assessments that inform the investment programme, schemes taken forward for planning have already demonstrated a rigorous needs case in support of national policy priorities, though the NPPF (and supporting guidance) make no reference to these. This adds delays and risks to projects as issues that have been addressed in strategic water/drainage planning (including the needs case for a project) may need to be relitigated or reassessed in planning. Much of the delivery programme in the period 2025-30 will comprise smaller schemes below the threshold for Nationally Significant Infrastructure Projects. Therefore, **both the NPPF itself and the supporting Planning Policy Guidance (PPG) must afford significant weight to the urgent need for water and sewerage infrastructure and benefits of the schemes taken forward.** We would welcome further conversations with Government about how to realise this in practice, though as a minimum we would be looking to see policy support within the NPPF at least as strong as that afforded to low carbon energy.

Government should also issue further guidance to Local Planning Authorities (LPAs) to reflect the urgent need for water and sewerage infrastructure, its statutory underpinning, its engineering constraints and its role in facilitating growth. Circular 17/91 represents best practice in this space and should serve as a model for an updated PPG. For example, Circular 17/19 introduces the then-new Bathing Waters Directive (and others) and establishes the need to upgrade sewage infrastructure to comply it with it. It explains that given the nature of the infrastructure and legislative outcomes they are delivering “the scope for water companies to vary the location of surface works is limited”. It further requires that LPAs give “sympathetic consideration” to projects taken forward under the Bathing Water Directive driver and encourages positive planning from LPAs in enabling it.

Alongside greater policy support for schemes taken forward, **Government should also recognise that the planning system will not add value to many of the improvements that we are required to bring forward.** As statutory undertakers, the sector benefits from certain permitted development and access rights. However, these rights do not reflect the fact that water sector investments and operations are increasingly “above ground” and involve the installation of types of structures and locations not envisaged in the original Permitted Development Order. For example, up to 9000 kiosks to host real-time river quality monitoring equipment will be delivered under s82 of the Environment Act. The locations of these are determined by the location of water company outfalls. Their physical footprint is effectively pre-determined and their function is to allow better monitoring of the environment, with no attendant risk to the environment. Nonetheless at present the sector need to consent each kiosk as a standalone planning application. This would stretch Local Planning Authority resources, risk the timely delivery of statutory infrastructure to enable a better understanding of the state of waterways, for no tangible benefit to decision-making or place-making. **Government should use the opportunity of planning reform to urgently extend the permitted development regime for water and wastewater undertakers** where it is clear that the planning process would add no meaningful benefit, in particular in relation to the s82 monitoring programme.

Housing reforms

Government’s reforms to housing needs assessments, green-belt policy and other measures will increase the need for water and sewerage network and treatment capacity. A plan-led approach to development offers the greatest certainty to utilities around future need and patterns of growth for infrastructure. Windfall and speculative development is correspondingly difficult to plan infrastructure for. However, there is a risk that some reforms will encourage more windfall and speculative development which is much more difficult to plan for. We therefore urge MHCLG to engage with Defra, the water sector and across all industries to ensure that reforms leading to new allocations of housing (or new industrial demand for water) are implemented in a way that is sensitive to the availability of existing and new network capacity. **The NPPF should require LPAs and developers to ensure that these issues (including flooding) are considered at the earliest possible stage of Local Plan development or scheme design/master planning.** This should include specific policy on the need to avoid or minimise the risks new developments can pose on drinking water sources (such as Source Protection Zones).

The NPPF consultation speaks encouragingly of delivering ‘affordable, well-designed homes and places’, in this vein we encourage the Government to embed more principles relating to sustainable water management throughout its proposals on housing. Water efficient homes, Sustainable Urban Drainage (SuDS) and other measures will be needed to reduce the demands on the environment and network, especially in light of climate change. At present, efficiency standards come through from Local Plan updates. This is inadequate to scale and urgency of need, so we recommend that **Government introduce a national water efficiency baseline in Building Regulations.** Implementing Schedule 3 of the Flood and Water Act is long overdue and the NPPF should support the need to implement multifunctional SuDS as an integral part of design.

We support the proposals for more strategic planning between LPAs via Spatial Development Strategies. Reintroducing formal regional/strategic level planning should not just be a mechanism to ensure housing delivery. It is an opportunity to ensure **water and other types of infrastructure are positively planned for alongside growth in housing and other commercial and industrial sectors.**

Nationally Significant Infrastructure Projects

The NPPF consultation proposes a review of the threshold for water and wastewater infrastructure which would qualify as NSIPs. The detailed design and impacts of generic infrastructure types will vary significantly depending on local circumstances and other parameters (geology, urbanisation, environmental designations etc), of which capacity/size is often secondary. As such, we do not think there is a non-arbitrary threshold for schemes to qualify as NSIPs - in some places, some large reservoirs will best suit the local planning regime, though the same sized reservoir would benefit from treatment as an NSIP elsewhere. Whilst we support the proposals to, in principle, bring more infrastructure types into the NSIP regime, we feel the best way to do this would be to **introduce an expedited s35 designation process** which developers can navigate with certainty and clear, depoliticised criteria. Flexibility in progressing applications through the most appropriate regime will overcome the limitations of the current legislative approach of the Planning Act 2008.

The NSIP regime generally has become increasingly complex, with timelines for determining Nationally Significant Infrastructure Projects (NSIPs) and the risks of Judicial Review having grown, with consenting times increasing by 65% since 2012 according to the NIC. Therefore, **we request the opportunity to engage with government to consider how the regime can be improved.**

General

Though not considered within the NPPF consultation itself, we wish to flag a further risk to the delivery of our essential infrastructure programme that Biodiversity Net Gain (BNG) presents. Our sector warmly supports the principle of BNG, though in practice, the early experience of the regime has been mixed and we have concerns that without some flexibility, issues with BNG will act as brakes on realising the significant environmental benefits of our investment programme. **We welcome further dialogue with MHCLG on ensuring that BNG does not lead to delays in delivering essential infrastructure.**

Similarly, a more **strategic approach to managing nutrient neutrality and water neutrality** is urgently needed.

Our members work across every English local authority and report highly variable experience when it comes to data availability. **Improvements to the availability of digital data from local planning authorities are required.** This should include the provision of up-to-date information on the status of housing sites and the number of units completed. It would be preferable if this was available as an open data source and was GIS compatible. We would also wish this data to be consistently approached throughout all local authorities in the country.

