

REVIEW OF PLANNING PRACTICE GUIDANCE

Response to the DCLG consultation of December 2012

by *Green Balance*



Green Balance is a small planning and environment consultancy which specialises in national policy and its local application. We have considerable experience not only in planning procedures and practices but in a range of planning topics including housing, minerals, rural development and heritage. We are active users of both policy and guidance issued by DCLG, contribute to their preparation and also advise other bodies on their own proposals for best practice advice.

Responses to consultation questions

1. Do you agree with the recommendations of the Review Group overall?

Broadly 'yes', with the exceptions, refinements and comments offered below. We are also pleased to see the Government's statement in the consultation document that "The Government welcomes the overall recommendations of the report, which is clear that guidance can add real value to planning practice." Having grasped the nettle of the need to bring planning guidance up to date in content and presentation, the Government should now commit to taking forward this major review and to keeping the guidance up-to-date. This would provide a major advance in the usefulness of the guidance.

2. Do you agree with the proposed recommendations for a much reduced set of essential practice guidance in the format recommended? (Recommendations 1, 2, 3, 5, [6])

We agree with recommendation 1 so far as it goes. This states that the function of Government planning practice guidance "should be to support effective delivery of plan-making and decision-taking, supporting the delivery of policy and the legislative planning framework". We consider that the function of the guidance should also explicitly be "to interpret policy", which according to circumstance should cover the substance of 'what it means in practice' or the methodology of 'how to use it'. This would mean, for example, that *Best Practice Guidance on Listed Buildings Prosecutions* (2006) would not simply be cancelled (Annex A of the Taylor Review, item 57) but considered for useful material it may still have for planning officers unfamiliar with the methodology. We support the exclusion of best practice exemplar type information from Government guidance, but are concerned that this simple and appropriate division is made more awkward by the Taylor Review's recommendation 9 (see consultation question 5 below).

We support recommendation 2 that the guidance should be a web-based, live resource, hosted on a single site as a coherent up-to-date guidance suite. The effect of having a single site hosting all guidance will be extremely helpful in avoiding the need to read two or more documents on many occasions to understand what current guidance is: the original document plus later amending documents. We support the objective of brevity, but the Taylor Review appears to go too far in suggesting that this should take the form of “prompts, essential information, required or recommended processes”. If guidance was in such ‘bare bones’ sentences it could lack comprehensibility: the guidance should be sufficient to convey the purpose of its existence.

We support recommendations 3 and 5 on the active management of the guidance. It is especially important that there is clarity about the guidance at any particular time (so automatic date-stamping of printed downloads is highly desirable). The guidance will be less frenetic if Ministers aim to constrain the frequency with which updates are issued. There is merit in stability in the planning guidance framework instead of continuous revision. We appreciate that as new legislation or policy arises which requires interpretation through guidance, this can rightly generate new material at any time. However, we propose that revisions of pre-existing guidance should be limited to specific occasions, so that multiple changes to the guidance are all made at the same time rather than several changes made at separate times over a short period. We therefore suggest that revisions to previously issued guidance should only be made annually, perhaps all issued together on 1st January each year. This could be co-ordinated with accommodating the outcome of the Taylor Review’s proposed annual review whereby users make suggestions for improvements.

3. Do you agree that standards for future Government Planning Practice Guidance should be implemented by the Chief Planner in DCLG, but with decisions on what to include within guidance still taken by Ministers? (Recommendation 4)

We strongly support recommendation 4 for document management and giving the Chief Planner responsibility for upholding these as gatekeeper for the website.

4. While access to all planning guidance online will be free of charge, do you think it would be appropriate to offer planning professionals an additional service involving immediate notification of every revision to the guidance, and to make a small charge for this service? (Recommendation 6)

We welcome the Government’s acceptance of the Taylor Review’s recommendation 6 that the website should be freely accessible. The Review also recommended that there should be a bulletin/alert system for all updates, but was silent about charging for this. The priority is to have notification of every revision rather than not have it due to the cost implications.

However, we consider that the case for charging is weak:

- charging would penalise occasional users of the website, such as third parties engaged over a period of two or three years in a major application from inception to inquiry;
- updates should not be so frequent as to justify charging if our proposal in response to consultation question 2 is accepted;
- if changes are notified to those identified subscribers who have logged in, why cannot the changes also be notified to anyone else who logs in? This should be part of the ‘freely accessible’ service which the website offers.

5. Do you agree that the new web based resource should be clearly identified as the unique source of Government Planning Practice Guidance? (Recommendations 7-9)

Yes. We support the inclusion of guidance provided by the Planning Inspectorate (recommendation 7), and we agree that material from or overlapping with other Government Departments should only be considered formal Government Planning Practice Guidance once it is admitted to the website (recommendation 8).

We do not support recommendation 9 on signposting to best practice by others. If guidance is being endorsed by the Government, then it should be admitted to the Government Planning Practice Guidance website. Expert bodies outside Government can usefully be encouraged to formulate draft guidance on the Government's behalf, but the power to produce 'endorsed' guidance should not be devolved to them. Recommendation 9 would create a dubious intermediate form of semi-guidance. Any interested party can of course promote its own best practice guidance, award schemes (which are numerous) or other innovations. Each reflects the interests of those who promote them. In our view it would be wrong to create an artificial division between those which were supported by the Government and those which were not. That would create a diversionary industry in trying to obtain Government endorsement for one's own best practice ideas. How could the Government justify endorsing one awards scheme but not another, especially if it was not formally represented on the awarding panel by a Departmental official (who, we suspect, should not be prioritising their time to that)?

It is critical that everyone knows what is official and what isn't, and the criterion of gaining access to the official website is the proper approach. This would ensure that the Government actively abided by its own guidance in decisions involving Inspectors and Ministers: there could otherwise be real confusion about the status as a material consideration of an 'endorsed' item of best practice and entirely avoidable disputes about whether the Government was or was not doing what it encouraged others to do.

We would expect Government-backed guidance on its own website to pass through a process of consultation beforehand (Taylor Review's recommendation 10), whereas best practice examples by outside bodies need represent no more than the views of their promoters. If outside bodies consulted parties engaged in a particular topic to gain credibility for their ideas, this would still exclude other parties who may have valuable comments to offer. Even if there were entirely open consultations, the chance of everyone interested hearing about these would be remote. Finding out about Government-controlled guidance is much easier and is proposed to be readily accessible for review by anyone. With Government-controlled guidance all parties would recognise and accept its status even if they did not wholly agree with it: they would feel less constrained to accept guidance from outside bodies, and could dispute it, bringing into question any Government endorsement.

Finally, the system of endorsement of outside bodies' best practice guidance would be open to abuse. Governments could dodge difficult topics requiring guidance by allowing others to try their luck instead, perhaps endorsing it for a while until it was found wanting: the perception of experimental temporary endorsement could emerge. Governments would also be inclined to confer endorsement on their favourite think tanks and other friends, and find it difficult to resist the pressures of strong lobby groups. Even if these bodies produced exemplary guidance, there would be many users of the planning system who believed that endorsement was the product of cronyism rather than merit. This would devalue the way particular guidance was perceived

and undermine the whole enterprise. It seems to us simply pointless to set such hares as these running when there is a ready alternative of including any guidance that really matters on the Government's own website.

6. Do you agree with the recommended timescales for cancellation of guidance and new/revised guidance being put in place? (Recommendations 10-13)

We admire and endorse the determination of the Taylor Review and, hopefully, the Government to maintain the momentum generated by the Planning Minister's grasping of the nettle of planning guidance revision. Completing the majority of the work by July 2013 is a fine aspiration and we would like to see the Government try to achieve it. However, we consider the practicalities will prove too onerous and there will be slippage. That is not critical, but the momentum for revision is.

The Taylor Review anticipated in recommendation 10 that "It will be necessary to create new material, drawing out (in consultation with practitioners) the vital elements from within the existing suite of guidance documents...". Drafting these documents, consulting on them, considering the responses, and revising the documents for publication is most unlikely to be achievable by July 2013. There will be two groups of guidance covered by the need for consultation: the eight topics suggested in the Taylor Review's Annex D on which wholly new guidance is required, and the guidance derived from the drawing out of material from current guidance.

Cancellation of existing guidance where it is no longer necessary (and Annex A identifies 103 such publications) can proceed as fast as the legal and practical requirements will allow, and much may be achievable by July 2013.

7a. Do you agree with the recommendations for cancellation of existing guidance documents? (Recommendations 14 - 16)

We support the principles set out by the Taylor Review in their recommendations 14-16, particularly the need for new guidance to be put in a modern, consistent format supporting the NPPF rather than simply restated from its varying existing formats. The cancellation of some Annex A documents may be unduly cavalier if our proposal for retaining guidance to 'interpret policy' is accepted (see response to Q2 above). Retaining the Annex C documents until replaced by revised guidance will ensure continuity of appropriate guidance. However, there is a real risk that important nuggets of guidance will be lost if Annex B documents are cancelled but then the replacement guidance never materialises. We propose that caution is exercised so that replacement guidance is available in draft before the Annex B documents are cancelled.

7b. Are there specific, essential elements of current guidance material that should in your view be retained and considered for inclusion in the revised guidance set?

We have no doubt that there will be elements of current guidance which should be retained. The Taylor Review team appear to have each read over 7000 pages of guidance and achieved an excellent first step of allocating documents for different categories of treatment. What the Review has not done, and could not have done in the very limited time it was given, is offer precise wording for retention from any document. Without knowing what is proposed to be retained or discarded, it is unrealistic for the current consultation to expect respondents to offer

‘specific, essential elements’ from so many documents. What is needed now is consultation on draft replacement material including a clear statement of which items of guidance have been retained from named pre-existing documents. That should not be rushed, and, after waiting so long for this action to be taken, is not something which needs to be rushed: maintaining momentum over a period of time is more important than a temporary explosion of activity followed by very little. Recommendation 10 proposed consultation on draft new guidance, and that is necessary.

8. Do you agree with the recommended priority list for new/revised guidance?
(Recommendations 17-18)

Yes. However, we suggest adding just one document to the list of priorities: updating guidance on rural issues. There is a pressing need for guidance on matters such as:

- the protection of the settings of protected landscapes and of other historic and environmental resources (e.g. in the light of the Secretary of State’s decision on the Kent International Gateway road-rail freight interchange near Maidstone, Kent);
- polytunnels;
- solar farms;
- inclusion of guidance from PPG2 on Green Belts and PPS7 on the Countryside which did not qualify as policy for inclusion in the NPPF (e.g. paragraph 1.7 of PPG2 and Annex E of PPS7 [referred to in Annex B item 27 of the Taylor Review]);
- tranquillity;
- the role of National Park and AONB Management Plans in planning;
- Tree Preservation Orders (see Annex B item 4 and Annex C item 53);
- lighting in the countryside (see Annex B item 26).

9. Are there any further points you would like to make in response to the Review Group’s Report? Do you have additional ideas to improve and/or streamline planning practice guidance?

The principal source of planning guidance until recently was the suite of PPGs and PPSs. Some of these had not been revised to offer policy alone, and still contained guidance. Whereas the Government included all the policy it wanted in the National Planning Policy Framework, there was important guidance lost from some PPGs/PPSs when the NPPF came into effect. Those documents should be examined for appropriate material to include in the new guidance.

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February 2013