

Landowners' Submissions on the Recent Amendments to the NPPF

On 21 July 2021, MHCLG published a revised version of the NPPF.

For the most part (and in so far as it is relevant to the issues raised by the TWAO application in this case) the NPPF is unchanged. However, this note:

- a) Identifies the changes which are relevant to issues under discussion in this case;
- b) Sets out the Landowners' position on the significance of those changes

NPPF Paragraph	Change	Landowners' comments on the significance of the change
7	Incorporates reference to the UN agreement to pursue 17 Global Goals for Sustainable Development	As the new text indicates, these are "high level" and address social progress, economic well-being and environmental protection. Since these three concepts were already covered by the NPPF, the additional text makes no substantive difference to the issues for the Inquiry
8(c)	The reference to "contributing to protecting and enhancing" our natural environment have been replaced by "protect and enhance". The reference to "helping to improve biodiversity" has been replaced by "improving biodiversity".	The changes do not raise a new issue, but do give added weight to the importance of our natural environment and biodiversity. Development must not merely "help" to protect/enhance/improve these things: it must actually do so
161	Plans should take into account all sources of flood risk	
163 and Annex 3	The Flood Risk Vulnerability Classification has now been incorporated into the NPPF	In so far as the old para 159 referred to the Flood Risk Vulnerability Classification "set out in national planning guidance", this change may make little difference in practice. However, the Flood Risk Vulnerability Classification which was previously found in Table 2 of the PPG is now unequivocally a matter of national policy, and not simply guidance. To the extent that this makes any difference, it strengthens the importance of the FRC

167(b)	<p>The requirement that development in areas at risk of flooding be flood resistant and resilient has been supplemented by the words “such that, in the event of a flood, it could be quickly brought back into use without significant refurbishment”</p>	<p>The newly inserted text is directly relevant to the points raised in cross-examination of Mrs Callaway about the extent to which the proposed railway would be “safe” not only in terms of the risk to passengers, but also in terms of the risk to the physical structures. In view of the vulnerability of embankment to scouring and the risk of movement of ballast when the embankment is overtopped (both of which have been recognised by RVR) the Landowners question whether it has or even can been demonstrated that the line could be “quickly brought back into use without significant refurbishment.”</p>
180(d)	<p>“opportunities to incorporate biodiversity improvements ... should be encouraged” has been amended to read “opportunities to improve biodiversity should be integrated as part of [the] design”</p>	<p>See comment on para 8(c) above. The changes represent a strengthening of the need to improve diversity, which is no longer simply “encouraged” but is required to be integrated as part of the design.</p>