

National Planning Policy Framework

Proposed Network Rail (Essex and Others Level Crossing Reduction) Order (the Order)

Note on relevance of revised National Planning Policy Framework (NPPF) to the case for the applicant

11 September 2018

Introduction

1. This note is provided in response to the Inspector's request, dated 7 August, to submit comments on the relevance of the revisions made to the 2012 NPPF to Network Rail's case.
2. On 24 July 2018, the Government published a revised NPPF. This provides at Annex 1: *Implementation*, paragraph 212:

"The policies in this Framework are material considerations which should be taken into account in dealing with applications from the day of its publication. "

Network Rail is satisfied that its proposals are consistent with the revised NPPF, just as they were with the 2012 NPPF, and that there are no substantive changes to the NPPF of relevance to its application.

12 core planning principles

3. Although the list of 12 core principles set out in paragraph 17 the 2012 NPPF has been removed from the revised NPPF, the principles themselves remain applicable, and are set out in the relevant chapters of the revised framework.

Sustainable development

4. At paragraph 2.6.1 of her Proof of Evidence (PoE), Dr Eliane Algaard refers to the principle of sustainable development set out in paragraph 14 of the 2012 NPPF and states that in her view "Network Rail's proposals accord with that principle". The revised NPPF reiterates the overriding principle of sustainable development in paragraphs 10 and 11.
5. Paragraph 8 of the revised NPPF focuses on achieving sustainable development through three overarching objectives:
 - a) an economic objective – to help build a strong, responsive and competitive economy, including by identifying and coordinating the provision of infrastructure;
 - b) a social objective – to support strong, vibrant and healthy communities, including by fostering a well-designed and safe built environment, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being; and
 - c) an environmental objective – to contribute to protecting and enhancing our natural, built and historic environment; including making effective use of land, helping to improve biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy.
6. NR maintains that the proposed Order scheme would contribute to each of these three objectives, which are entirely consistent with its strategic case for the reduction of level

crossings, including its safety case and the removal of constraints on the operation and enhancement of the railway network for the provision of public transport services.

7. At paragraphs 2.6.12 and 2.6.13 of her PoE, Dr Algaard addresses how the Order proposals will contribute to economic growth. She refers specifically to paragraphs 18, 19 and 28 of the 2012 NPPF. Those policies can now be found in Chapter 6 of the revised NPPF.

At paragraphs 2.6.12 and 2.6.13 of her PoE, Dr Algaard set out that the Order proposals would provide a positive improvement to quality of life by contributing to improvements in the conditions in which people live, work, travel and take leisure; maintain the openness of the countryside, and assist in supporting local strategies to improve health and deliver sufficient facilities to meet local needs. She refers, inter alia, to paragraphs 9 and 17 of the NPPF.

Paragraph 9 has been deleted from the revised NPPF, however the revised NPPF generally sets out to achieve these aims and they are covered in the relevant chapters. References stating that development should positively improve people's quality of life are expressed differently, e.g. the emphasis is on the principle that developments, and noise resulting from developments, should not undermine the quality of life.

Similarly, paragraph 17 (core principles) has been deleted in the revised NPPF. However, similar references are made elsewhere in the document:

Paragraph 170.b) "**recognising the intrinsic character and beauty of the countryside**" – NB reference to 'supporting rural communities' has been deleted

Paragraph 103: The planning system should **actively manage patterns of growth in support of these objectives.**

Paragraph 92: To provide the **social, recreational and cultural facilities and services the community needs**, planning policies and decisions should:

- a) plan positively for the provision and use of shared spaces, **community facilities** (such as local shops, meeting places, sports venues, open space, **cultural buildings**, public houses and places of worship) and other local services to enhance the sustainability of communities and residential environments;
- b) take into account **and support the delivery of local strategies to improve health, social and cultural well-being for all sections of the community;**

[emphases added]

8. At paragraph 2.6.14 of her PoE, Dr Algaard sets out how the Order proposals accord with the 'environmental objective'. Specific reference is made to paragraph 75.
9. Paragraph 75 of the NPPF stated that planning policies should protect and enhance public rights of way and access and that local authorities should seek opportunities to provide better facilities for users, for example by adding links to existing rights of way networks including National Trails.
10. This is now addressed through Chapter 8 of the revised NPPF, which addresses safe and accessible development as well as clear and legible pedestrian routes and high quality public space. Paragraph 98 states that planning decisions should protect and enhance public rights of way and access, including taking opportunities to provide better facilities for users, for example by adding links to existing rights of way networks including National Trails.
11. Again, there is no substantive difference between the 2012 NPPF and the revised NPPF, and the Network Rail proposals remain consistent with both.

12. Dr Algaard sets out in paragraph 2.6.13 of her PoE how the Order proposals would support the promotion of sustainable transport.
13. Chapter 4 of the 2012 NPPF was concerned with promoting sustainable transport. It required local authorities to plan for the use of sustainable modes of transport. Paragraph 35 stated that developments should “*give priority to pedestrian and cycle movements, and have access to high quality public transport facilities*”; and “*create safe and secure layouts which minimise conflicts between traffic and cyclists or pedestrians*”.

The promotion of sustainable transport is now considered in chapter 9 of the revised NPPF. It also requires local authorities to plan for the use of sustainable modes of transport. Paragraph 102 provides that transport issues should be considered from the earliest stages of plan-making and development proposals, so that:

- a) the potential impacts of development on transport networks can be addressed;
- b) opportunities from existing or proposed transport infrastructure, and changing transport technology and usage, are realised ...and
- c) opportunities to promote walking, cycling and public transport use are identified and pursued.

Paragraph 110 provides that applications for development should:

- a) give priority first to pedestrian and cycle movements...and second – so far as possible – to facilitating access to high quality public transport;
 - b) create places that are safe, secure and attractive – which minimise the scope for conflicts between pedestrians, cyclists and vehicles, avoid unnecessary street clutter, and respond to local character and design standards;
14. The strategic case for the proposed Order is clearly consistent with the principles expressed in the revised framework. In particular, high quality public transport would be better realised by the removal of level crossings on the route.
 15. In paragraph 2.6.13 of her PoE, Dr Algaard refers to paragraph 35 of the 2012 NPPF, which is now reflected in paragraph 110 of the revised NPPF mentioned above.

Design

16. Paragraph 124 of the revised NPPF provides that good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. Being clear about design expectations, and how these will be tested, is essential for achieving this. So too is effective engagement between applicants, communities, local planning authorities and other interests throughout the process.
17. The works promoted by the order and deemed planning consent are minor in nature and already commonplace within the rural setting (public right of way finger posts, public right of way foot and bridleway bridges over local drains and ditches, unsurfaced field margin footpaths etc.) The request for deemed planning permission contains a condition which requires approval by the local planning authority of the design and external appearance (including finishing materials) of a footbridge, and that the works are carried out in accordance with the approved details.

Biodiversity

18. Chapter 15 of the revised NPPF is concerned with conserving and enhancing the natural environment. There are no substantive differences between the revised framework and the 2012 NPPF. As set out in Susan Tilbrook's Proof of Evidence, NR has carried out an extensive programme of environmental surveys to understand local constraints and inform scheme development. A Precautionary Method of Works (PMW) has been sent out to the local planning authorities for agreement and is proposed to be controlled by planning condition.

Historic environment

19. Paragraph 9 of the 2012 NPPF explained that pursuing sustainable development involves seeking positive improvements in the quality of the built, natural and historic environment, as well as in people's quality of life. Chapter 12 was concerned with preserving and enhancing the historic environment. There is no difference of substance between chapter 12 of the 2012 NPPF and chapter 15 of the revised NPPF and, in particular, paragraph 184 of the revised NPPF provides that heritage assets are an irreplaceable resource, and should be conserved in a manner appropriate to their significance. A draft archaeological condition was proposed in the conditions originally submitted with the Order, but NR considers that that proposed condition is no longer required to satisfy both local and national policy requirements. Network Rail awaits comments and confirmation from the local planning authorities of their agreement to the deletion of this condition, and this will be addressed further during the conditions session.

Conclusion

The changes to the revised NPPF of relevance to the application do not alter the effect of the policy framework. As set out above, Network Rail is satisfied that its proposals remain consistent with the revised NPPF.