

Land Forum Meeting

22nd September, 2011 Meeting Notes

Location: CL:AIRE Office, Marble Arch, London

FINAL

Present:

Phil Crowcroft, (<i>Chair</i>)	Specialist in Land Condition Register (SiLC)
John Henstock (<i>Secretariat</i>)	Contaminated Land: Applications In Real Environments (CL:AIRE)
Ruth Austen	Local Authorities (Northampton Borough Council)
Jane Garrett	Contaminated Land: Applications In Real Environments (CL:AIRE)
Ian Heasman	The Soil and Groundwater Technology Association (SAGTA)
Deborah Holmwood	The Land Trust
Seamus Lefroy-Brooks	Association of Geotechnical Specialists (AGS) & Environmental Industries Commission (EIC)
Mark Plummer	Department for Communities and Local Government (CLG)
Stuart Hylton	Planning Officers Society / Local Government Association (LGA)
Mike Quint	Society of Brownfield Risk Assessment (SoBRA)
David Rudland	Environmental Protection UK (EPUK)
Andrew Wiseman	EPUK/UK Environmental Law Association
Anne Wood	Department for Communities and Local Government (CLG)

By telephone: Theresa Kearney, Department of Environment Northern Ireland (DoE NI); Paul Sheehan (EIC).

Agenda:

1. Welcome and Apologies
2. Terms of Reference
3. Logo
4. Membership
5. National Planning Policy Framework Consultation
6. Summary Updates:
 - Part 2A – next steps to support implementation of the statutory guidance
 - Uneconomic land – understanding the true cost. How to change the attitude of current landowners
 - Better Regulation – industry moving towards self regulation
7. AOB
8. Date of next meeting

Meeting Notes

1) Welcome and Apologies

Apologies were given for Richard Boyle (HCA); Tom Coles (Defra); Peter Johnson (Strategic Forum for Construction & UK Contractors Group); Caroline Thornton (SEPA) and Steve Smith (Welsh Government).

2) Terms of Reference

JH confirmed that the Terms of Reference now available on the Land Forum webpages (www.claire.co.uk/landforum) were up to date and PC suggested that these would need to be kept under review to ensure they are up to date, particularly regarding evolving membership, as discussed in item 4.

3) Logo

It was unanimously agreed that the newly drafted Land Forum logo created by Ian and Ximena Heasman should represent the group and is to be used from now on. The group acknowledged and thanked them for their work in its creation.

4) Membership

PC recapped from the first Forum meeting how the Forum's composition had come about and explained the need to keep the group manageable in size. Nevertheless since Forum inception and the initial invitation process there now appeared scope to extend the group membership, with invitations already having been extended to the CIEH's Standing Conference on Land Contamination, and now the Environment Agency will also be approached. The group welcomed extending membership where possible with RA making the point that she felt she could only represent the views of her own local authority which should not be considered representative of overall local authority views. It was felt that membership may be fluid around the issues discussed as long as the core group size remained manageable for meetings. TK stated her intention to set up a Northern Ireland Land Forum to mirror and feed into this Forum's activities. PC explained that the composition of the Forum and the process of inviting organisations to become members are controlled by the Forum as a whole, rather than the Chair or Secretariat.

5) National Planning Policy Framework Consultation

Mark Plummer and Anne Wood from Communities and Local Government kindly introduced the National Planning Policy Framework (NPPF) Consultation explaining the main principles whilst aiming to dispel any misapprehensions, particularly those associated with the presumption in favour of sustainable development. MP explained that some 'myth-busters' relating to the NPPF were available on the CLG website¹ which explains more fully some of the most common misapprehensions and questions.

Stuart Hylton pointed out that The Communities and Local Government Select Committee has announced² that it intends to hold oral evidence sessions on the draft NPPF in October and

¹ <http://www.communities.gov.uk/publications/planningandbuilding/nppfmythbuster>

² <http://www.parliament.uk/business/committees/committees-a-z/commons-select/communities-and-local-government-committee/news/national-planning-policy-framework-call-for-evidence/>

November. Prior to this, The Commons Environmental Audit Committee will hold an inquiry³ into sustainable development in the draft NPPF in time to inform the CLG Committee's Inquiry. SH suggested that the Select Committee should be holding and feeding back its sessions before the consultation closes on the 17th October and hoped that conclusions from these sessions would still influence the draft NPPF prior to its final issuing.

SH summarised the Planning Officers Society's already completed response including the following points. The Planning Officers Society felt:

- the brevity was welcomed;
- there was insufficient detail;
- accompanying guidance is necessary (details missing);
- that Waste Planning is separated out from the Framework and should be looked at within the NPPF;
- it appears that the economic pillar of sustainability is the most important;
- many definitions are insufficient, particularly that of Sustainable Development which in point 12 suggests that its definition is the NPPF 'taken as a whole';
- that consequences of localism would mean different Local Authorities were bound to have different interpretations of sustainable development and have different weightings of the 3 pillars (more explicit nuancing required throughout guidance).

The group discussed the document and debated each initial concern as listed above with the assistance of MP to respond from the informed CLG perspective. The most succinct summary of the agreed points is provided as the 'Land Forum NPPF Consultation Response' contained at the end of the notes as an addendum. The following are select points which may provide useful background, as coverage of these was limited in the agreed response.

Concern was raised across the group regarding the clarity of what would be asked of Local Authorities under what appears such non-prescriptive Policy, open to subjective interpretation and therefore exposing the process to delay, inconsistency and legal challenges, particularly with regard to producing Local Plans. The concern over ambiguity was felt to be heightened further by the lack of clarity over definitions and statements. These points all led to conclude that accompanying guidance is required as described in point 7 of the addendum consultation response.

Many of the Forum members present believed that the economic strand of sustainability is overemphasised in the document, particularly in comparison to references of environmental and social strands which did not appear to have the same coverage. PC commented that 'sustainability' appeared the only material planning consideration. The conversation concluded in the full response provided in point 1 of the addendum.

MP pointed out even with a new NPPF, the law had not changed. Although the presumption had changed, decisions still relied on Local Authorities to use their discretion and make judgement calls. MP was keen to highlight that a major difference was that there was no longer the Planning Policy Statements (PPSs) supporting the framework. MP challenged the group to identify what other necessary components would be missing from the PPSs with the draft as it is, aside from the documents listed in the consultation document such as the 'Strategic Housing Land Availability Assessment: Practical Guidance' and the 'Strategic

³ <http://www.parliament.uk/business/committees/committees-a-z/commons-select/environmental-audit-committee/news/sustainable-development-new-inquiry/>

Housing Market Assessments: Practice Guidance'. MP also noted that a list of what documents would effectively be abolished and/or is included in the framework.

Conclusion

It was concluded that due to the diverse interests of the group, most Forum organisations would respond individually with their responses covering their particular concerns that were not shared, and could not be attributable to the Land Forum in its entirety. The Land Forum would respond to the common points for which there was consensus across the group, and the response would clearly be sent from the non-Governmentally linked parties within the Forum's representation (and would be marked as such). **Action PC/JH, to coordinate NPPF response.**

6) Summary Updates

PC updated all that the *Better Regulation* subgroup was due to meet the following week (27th September) so the updates would follow.

DH updated the Forum on their *Understanding the True Costs of Brownfield Land* subgroup saying that the Land Trust was in the process of sponsoring a PhD student who would be assigned to looking at their previous paper, so (**action**) **DH would update the group** if and when activity commences. SH confirmed as a previous meeting action that the Planning Officers Society could not commit to this sub-group.

PC summarised an e-mail from Tom Coles regarding the *Part 2a Statutory Guidance Support* sub-group. It was reported that the Statutory Guidance was still awaiting sign-off from the Regulatory Policy Committee where there was presently congestion in processing all new Policy. Assuming Regulatory Policy Committee clearance is soon achieved the present best estimate of getting new Statutory Guidance in place is sometime in December 2011 / January 2012. PC reported back that these delays would consequently delay the "next steps" work, and the Land Forum's role in that work. Tom Coles was quoted as stating "*The broad plan is that the Forum will play a part in overseeing the next steps work, and we will need to work out precisely how it will do this fairly soon*". MQ asked for reassurance that the processes for identifying and doing the work would be open, transparent and involve the right people/organisations. PC sought to reassure insofar as the facts were available and said that all could be involved by proactive participation/volunteering in the activities of the Land Forum and its associated member organisations..

7) AOB

In terms of new issues or work on the horizon, SLB reported that AGS were looking at reviewing the Food and Environmental Risk Agency (FERA) Report which looked at actual health risks. This was proposed as something which could be reviewed as a potential agenda item for the next meeting.

8) Date of Next Meeting

It was suggested that the next meeting should be in the middle of January. **Action JH to circulate dates** based on mid-week days.

Addendum

The following list represents the common views shared by the Land Forum representation as described above.

1. The Framework document defines sustainable development in relation to its three normal strands of economic, social and environmental factors (paragraph 10). The majority of our members believe that the economic aspect is overemphasised in the document, and we would urge that sustainable decisions should be based upon a balanced consideration of these factors. The definition of sustainability features in two locations – paragraph 12 states that all the policies in the Framework document define sustainable development, in contrast to a simpler definition set out in paragraph 10. The Framework should only be based on one definition.
2. Whilst the shortening of the overall policy on development is laudable, the loss of effectively all underpinning guidance such as PPS and PPG documents leaves a vacuum which must be addressed. It is recognised that guidance can be slimmed down, but the some of the key elements of former PPS documents needs to be retained in concise form.
3. The consultation indicates that a wide range of policy/guidance documents are being withdrawn. The Land Forum suggests that key aspects of the present policy and guidance which are being omitted are replaced by a short focussed summary guidance document. This will ensure more consistent delivery of planning decisions across the country.
 - By way of example, the key aspects of a PPS may be condensed down to a 2-3 page chapter of a new guidance document, focussing on the main messages.
 - In PPS 23, we must not lose the principle regarding responsibility for delivering sites which are suitable for new uses. The current regime is clear that the Developer retains ultimate responsibility for remediation, and this should remain as a clearly stated principle. If it is lost, it will create confusion and conflict and could result in a cost burden on the public purse for sites that are not made suitable for use through planning.
 - Guidance should pick up on the presently used themes of land being made “suitable for use”. Further clarity is needed to prevent the perpetuation of the contradiction between ‘safe’ (NPPF paragraph 163) and ‘suitable for use’ (164) currently embedded in PPS23.
4. The Land Forum supports the concept of sustainable land use in the NPPF; namely that the best piece of land should be used for the proposed end use regardless of whether it is greenfield or brownfield. However paragraph 19 ‘prefer land of lesser environmental value’ and paragraph 165 ‘allocate land with the least environmental amenity value’ only tangentially refer to brownfield. Without full and proper emphasis, the numerous sustainable benefits that brownfield regeneration brings are likely to be reduced.
5. Robust definitions are required on many ambiguous words and statements. It is recognised and accepted that localism will result in stronger local decision making based on local conditions. However, the additional inconsistency which flows from a lack of clarity in the NPPF will increase operating risks for multi-regional or national organisations.
6. The Glossary needs to be expanded.
7. Guidance needs to support, advise and assist on how the Framework should be implemented on a local level, to help establish a greater level of certainty and consistency in its application.
 - This especially needs to cover the balancing of the 3 pillars of sustainability in the context of creating Local Plans.

- This should concentrate on providing as greater clarity as possible as the best method of reducing uncertainty and associated problems in operating under the Framework.
 - The useful 'myth-busting' NPPF section on the CLG website needs to be incorporated into the guidance, as it seems that these details are critical in being able to clearly operate under the new NPPF.
8. The introduction of the new framework will create a substantial pressure on having up to date Local Plans, and the transition period for introduction should be of sufficient length to allow updating and/or publication of new Plans.