



# LEVELLING-UP AND REGENERATION BILL: REFORMS TO NATIONAL PLANNING POLICY

NATIONAL PLANNING POLICY FRAMEWORK: COMMENTS ON DRAFT  
TEXT FOR CONSULTATION

SAY NO TO SUNNICA ACTION GROUP LTD

10/02/2023

# 1. Draft National Planning Policy Framework - Consultation

- 1.1.1. On 22 December 2022 the Department of Levelling Up Housing and Communities published an Open Consultation on proposed reforms to National Planning Policy in the Levelling Up and Regeneration Bill.
- 1.1.2. This is a response to specific proposals for change in the National Planning Policy Framework. The questions in the invitation for responses are used for ease of reference.
- 1.1.3. Say No To Sunnica Action Group Ltd (SNTS) is a community action group opposing a 2500-acre ground-mounted solar and battery NSIP (Sunnica Energy Farm), proposed entirely on high quality, and high yielding, arable land across East Cambridgeshire and West Suffolk. The scheme is being promoted as being temporary and has been assessed on that basis. The project is a Nationally Significant Infrastructure Project (NSIP) currently in Examination. The changes in the draft National Planning Policy Framework are of relevance to this project as well as others previously consented as being temporary and others currently at various stages in the planning process.
- 1.1.4. SNTS does not oppose renewable or solar energy in principle, it only seeks for the impacts of renewable energy development to be acceptable to the communities affected and schemes to be of appropriate scale.

Q.41: Do you agree with the changes proposed to Paragraph 155 of the existing National Planning Policy Framework?

- 1.1.5. The proposed change is (in red):

*To help increase the use and supply of renewable and low carbon energy and heat, plans should: a) provide a positive strategy for energy from these sources, that maximises the potential for suitable development, and their future re-powering and maintenance, while ensuring that adverse impacts are addressed satisfactorily (including cumulative landscape and visual impacts);*

- 1.1.6. It is unclear why the plans should expressly consider re-powering and maintenance as a distinct entity from considering the suitability of development. Essentially a development is either suitable or it is not, and a planning authority is not required to consider future use and re-use except when the development is proposed as being temporary. Future changes of use or changes to the development are covered by the planning consent process, a planning authority is not obliged to consider changes in technology or demand at the outset as these are the subject of subsequent planning consent if they change the original consented development other than simple renewal.

- 1.1.7. If a planning authority is required to plan for re-powering and maintenance as the norm, it becomes difficult to separate a temporary permission from a permanent one. The effect is to make implicit that re-powering and maintenance are an expected part of the development, even where such development is proposed or already consented as being temporary. While a planning application is considered on its merits, the existence in planning policy of a presumption of re-powering and extending would make understanding and assessing applications more difficult. It would obfuscate real harm. This particularly so when this change is considered alongside the proposed change to Paragraph 158.

#### Q.42: Do you agree with the changes proposed to Paragraph 158 of the existing National Planning Policy Framework?

- 1.1.8. The proposed change is (in red):

*When determining planning applications for renewable and low carbon development, local planning authorities should:*

*a) not require applicants to demonstrate the overall need for renewable or low carbon energy, and recognise that even small-scale projects provide a valuable contribution to significant cutting greenhouse gas emissions;*

*b) approve the application if its impacts are (or can be made) acceptable. Once suitable areas for renewable and low carbon energy have been identified in plans, local planning authorities should expect subsequent applications for commercial scale projects outside these areas to demonstrate that the proposed location meets the criteria used in identifying suitable areas; and*

*c) approve an application for the repowering and life-extension of existing renewables sites, where its impacts are or can be made acceptable. The impacts of repowered and life-extended sites should be considered for the purposes of this policy from the baseline existing on the site.*

- 1.1.9. The effect of the new clause c) requires planning authorities to approve an application for repowering and life extension of a renewable energy development without considering that the original consent may have been granted on the basis that the development is temporary (which appears to be the effect of the second sentence). This is particularly the case for solar energy schemes on agricultural land where planning consent may have been granted on the basis that the change of use is temporary and the land will eventually return to its previous agricultural use. Indeed, Natural England has considered some solar applications to be acceptable based on no long-term loss of farmland.
- 1.1.10. The proposed wording appears to not require consideration of if the development was originally proposed as temporary, but instead only requires consideration of if the impacts of repowering and life-extension

can be made acceptable. The baseline is further proposed to not be the pre-existing land use but the current use. The baseline therefore being land that has been used for renewable energy for 25 years or more. It is likely that repowering and life-extension might only require modest changes apart from renewal, such as replacement of equipment. Such changes may not create any significant environmental impacts when considered against the baseline or the existing development. But it may be a very significant change and significant environmental impact from prior to the original construction of the development.

- 1.1.11. Consequently, it could be assumed that in most cases such applications would be approved, irrespective of the original impacts and if the original application was temporary. The baseline should consider harms that would cease if consent was not granted. A true baseline would reflect the original time limited harm. What is meant by “baseline existing on the site” and the extent to which planning authorities can consider previous time limited harms needs to be clarified.
- 1.1.12. This is significant change of policy affecting already consented sites and sites going through the planning process now. Whereas local people might not have objected to the original application, believing it to be temporary and necessary temporary loss to meet climate change objectives, they might have objected to a permanent development. Equally in granting consent some weight might have been given to it being temporary and weighed in the planning balance accordingly. Had the application been for permanent development the application may have been refused or additional safeguards sought.
- 1.1.13. With the proposed change to the NPPF now expressly envisaging re-powering and life-extension without consideration of the temporary nature of a previous consent or an application currently in process being for temporary development, all such applications should be considered in terms of their impact as being permanent. This on the basis that when considering an application for re-powering and life-extension a planning authority is not obliged by the draft NPPF to consider the pre-existing use and the original impacts of the development.
- 1.1.14. When read in conjunction with the revised paragraph 155 planning authorities should assume from the outset that the development will be repowered and/or extended. This is on the basis that future local plans under revised paragraph 155 will provide for such an approach. As re-powering would change a development from being temporary to being permanent no applications currently in process should be given any weight for being temporary, even when the consent is granted as being temporary. It must be assumed in all cases that repowering and extension is highly likely, and the impacts are therefore permanent.
- 1.1.15. It is therefore vital that in the planning and consenting of renewable energy developments that strong local support is assured, and developments are not imposed contrary to the view of the local communities,

and that it is ensured that the local population obtains some local benefit in the form of reduced bills such as proposed in the Government's Energy Strategy. Indeed, an in practice change of a temporary PV farm to a permanent one by operation of a plan or NPPF 158 might be said to have the effect of eroding any existing (or future) community consent for temporary schemes, when they in effect become permanent. Permanent schemes should not be hidden behind the operation of NPPF and/or plans.

- 1.1.16. It is also important that the meaning of temporary, for example in draft NPS EN-3, is properly clarified. Indeed, it would appear that the new wording may conflict with the draft which specifically refers to the "temporary nature of solar PV farms" at 2.50.7. This reinforces the point that the changes in the NPPF make schemes in effect permanent as the ability to refuse applications to extend is constrained (notwithstanding their original temporary nature). Consequently, a change to the draft NPS EN-3 is likely required to remove the presumption that solar PV is temporary and limited by the life of the panels.