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Dear Mr Scott

Draft National Planning Policy Framework consultation: Institution of Civil Engineers' response

The Institution of Civil Engineers (ICE) welcomes the opportunity to contribute to the consultation on the draft National Planning Policy Framework (NPPF). England's planning system is of critical importance to all its citizens, and has a major influence in the professional activities of civil engineers.

This letter complements our online response, providing some more context for our views and allowing us to present a more coherent narrative.

Background

ICE is the professional organisation for the civil engineers responsible for construction of the infrastructure – transport, energy generation and distribution, water supply and treatment, waste management, and flood defences - required for a successful low-carbon economy and an enhanced quality of life. We are a UK-based international organisation with over 80,000 individual members and are recognised as a public voice for the profession.

Founded in 1818, ICE has a Royal Charter which obliges us to act for the public benefit and it is in this spirit, and drawing on our expertise in infrastructure planning, investment and delivery, that we contribute to debate on planning reforms. Our interests in the planning system is in ensuring that it provides the most appropriate environment for timely provision of the infrastructure essential to a successful, low carbon economy.

ICE has been closely following the Government's planning reforms over the past year. We established an expert member panel to analyse and contribute to the development of the Localism Bill and National Planning Policy Framework and have published views on both (for the NPPF, to February's pre-consultation phase, and in response to September's Select Committee call for evidence). We have also consulted other of our expert panels and advised the membership as a whole of our intention to respond - a significant number have responded with useful insights that inform this submission.

General observations on national planning guidance

ICE has long called for reform and simplification of a planning system which has been a frequent source of frustration to the developers of infrastructure. Thus we endorse the Government's objective of simplifying England's planning system, with the intention of making it more efficient and effective.

ICE is pro planning. We want to see a strong, positive, efficient and comprehensive system which gives certainty to investors and developers, provides an effective vehicle for local residents and businesses to shape the future development of their area, and realises national social, environmental and economic ambitions.

We favour strong, clear and concise national planning guidance which provides a robust framework for local interpretation – allowing different areas to realise their contribution to national objectives. We are not automatically of the view that the shortest possible national planning guidance is the best. While

there is a case to say that the current system has become unwieldy, planning deals with many complex and competing subjects and interests. Local interpretation is vital but detailed national guidance can be useful, especially where consistency is important.

Finally under this heading, we note that the Government has resisted ICE's and others' call for a spatial element to the NPPF. While development of a spatial vision for England would be difficult and contentious, we remain of the view that many of the problems faced by the planning system are made more acute by the disparities in growth pressure around the country, notably the concentration of growth pressure in the South East. Without a clear strategy and intent to address this imbalance, it seems unlikely to us that that many of the planning challenges which have received so much recent media coverage can be resolved.

Specific consultation question responses

ICE's technical expertise and much of its experience of the planning system is vested in its membership, and many members contributed to development of this response. We have only presented a brief synthesis of the insight received below but would be willing to provide more detail on request.

We have not – either here or in the online consultation – sought to answer all the questions posed but confined ourselves to those most relevant to the development of infrastructure.

1a. "The Framework has the right approach to establishing and defining the presumption in favour of sustainable development."

While the Framework has some welcome elements and expresses commendable general sentiments we must **disagree**¹ with the assertion. Sustainable development is referred to throughout the draft NPPF but there are multiple interpretations and goals. Juxtaposing the Bruntland definition with the NPPF's statement that local planning authorities should "Grant permission where the plan is absent, silent, indeterminate or where relevant policies are out of date"), for example, seems set to generate conflicts of interpretation.

We would also question whether short-term economic growth concerns are over-prominent in places, and whether environmental concerns – particularly around transport issues – seem sometimes to be optional.

There may be a further issue in the relationship between a "plan-led" system and the presumption. We would prefer to prefer more explicit recognition that compliant plans, which embrace a local interpretation of sustainable development, have primacy. Local plans may, for good reasons, decide that some forms of even sustainable development are not desirable in certain locations.

2a. "The Framework has clarified the tests of soundness, and introduces a useful additional test to ensure local plans are positively prepared to meet objectively assessed need and infrastructure requirements."

We **agree** with this assertion insofar as arguably the most important role for the NPPF – especially in light of its simplification of national guidance - is to incentivise the production of up-to-date local plans. In view of the current paucity of such documents, however, transitional arrangements are necessary to avoid a temporary vacuum in which poor quality developments can secure approval by exploiting vagueness and loopholes in the NPPF. We were pleased to see that the Government has agreed to introduce transitional arrangements: if produced well, these could allay many of the

¹ For each point, the online consultation structure asks whether respondents Strongly Agree/Agree/Neither Agree Nor Disagree/Disagree/Strongly Disagree. We have attempted to follow this approach, although it may emphasise disagreements – which may only be with parts of the consultation's assertions

concerns expressed about the impact of the NPPF in the short-medium term.

- 2c. "The policies for planning strategically across local boundaries provide a clear framework and enough flexibility for councils and other bodies to work together effectively."

ICE specifically identified the Duty to Co-operate as a concern in the original Localism Bill, and was heartened by the overwhelming support on this point from other organisations. We feared that larger-than-local strategic planning might become a nice – rather than a need – to do; with the result that vital infrastructure such as for transport and energy would not be properly planned and delivered in many areas.

We were encouraged by the Government's amendment of the Duty in the Bill, developed further in the NPPF. We retain some concerns that the incentives to co-operate, and the minimum standards the Government seems to expect (e.g. "a memorandum of understanding") may not be sufficient to overcome the incentives to unhelpful competition between districts and boroughs, even to "beggar thy neighbour", especially when investment is scarce.

The effect of the Duty in practice remains to be seen, however, and may differ widely around the country: for these reasons, ICE **neither agrees nor disagrees** with the assertion at 2c.

- 4a. "Any guidance needed to support the new Framework should be light-touch and could be provided by organisations outside Government."

The most important thing about any document is that it achieves what it is designed to do. Shorter and easier-to-read is a 'nice to have' but many aspects of planning are complex and may benefit more in-depth material. Because of this, we **disagree** with the assertion. Indeed, on contentious matters brevity can prove counter-productive if arguments over ambiguity and interpretation end up in the legal system.

In some senses it does not matter who produces guidance – as long as they are free (and seen to be free) of vested interests and so long as Government remains accountable. Consortia of different perspectives may be one way of balancing competing interests – but Government must remain the final arbiter in all cases.

- 6a. "The town centre policies will enable communities to encourage retail, business and leisure development in the right locations and protect the vitality and viability of town centres."

We have some concerns about the likely effects of removing the "town centre first" presumption for office development and therefore **disagree** with the assertion. Out-of-town locations are often easier to develop but sustainable transport – greener modes and shorter distances – is often less suited to such locations. The draft NPPF may presage increased car dependence and emissions and greater strain on already hard-pressed road infrastructure – while public transport (which tends to serve town centre locations better) is undermined.

- 7a. "The policy on planning for transport takes the right approach."

While there are laudable general sentiments in this section, we must **disagree**. ICE is concerned that the wording of some sections, particularly on Transport, will allow unsustainable development to be permitted. Paragraph 83 is a case in point. While much of the Transport section appears to reflect good practice, it seems rendered more optional than compulsory by the use of phrases like "Where practical".

Additionally, and while there is an argument for removing uniform national direction, complete removal of national maximum car parking standards may lead to competition among neighbouring authorities to offer the easiest conditions in a bid to encourage (car-dependent) development.

Transport is a good subject for larger-than-local planning and co-operation – but there are powerful short-term self-interest objectives which can override such good intentions.

14a. "The policy relating to climate change takes the right approach."

We **disagree**. As noted earlier (and by many others), short-term economic growth seems to be first-among-equals in the Framework's priorities, sometime over-riding environmental concerns where there is a conflict between these. Our comments on transport are an example.

On the specific subsection of 'Planning for Places' it is perhaps unfortunate that international climate change issues appear to be parcelled up with those of localised flooding and coastal change. The latter are but one small (but important) part of the picture.

While the support for delivery of a renewable and low-carbon energy supply is welcome, it should still be recognised that a large proportion of our energy supply will still come from conventionally fuelled facilities. Indeed, fossil-fuelled generation is essential to making a wind-dominated renewables feasible. Fossil-fuelled facilities will be required for decades and should not be discriminated against in planning policy, even inadvertently. The need for new electricity infrastructure is massive and reference to national energy priorities would be helpful.

14c. "The policy on renewable energy will support the delivery of renewable and low carbon energy."

We both **agree and disagree** with this assertion. Much of the most important policy on renewable and low carbon energy is contained in the National Policy Statements which were recently approved in Parliament. The draft NPPF will be important, however, for smaller schemes which – cumulatively – can have a significant contribution. Particularly notable among these is onshore wind, developments of which are often contentious. A more positive national direction is essential in supporting further development of onshore wind, alongside reasonable incentives to compensate nearby communities. The Framework's text as it stands sets an appropriate tone.

The questionable omission of waste policy from the NPPF poses questions for energy-from-waste developments. These have the potential to make a significant contribution to the UK's energy requirements and should be incorporated into the NPPF. National guidance is also required to establish a consistent planning context for these sometimes-disputed developments.

14g. "The policy on flooding and coastal change provides the right level of protection."

We **disagree**. ICE has received several expert submissions on the draft NPPF's coastal protection and management content: while noting some good points in the NPPF, all expressed concern that some of the useful content of PPS25 would be lost. The consensus among the experts seems to be that PPS25's guidance has been excessively reduced in the draft NPPF, making the task of managing flood risk more difficult.

ICE would be happy to facilitate further discussions between expert practitioners and DCLG on these issues.

16a. "This policy provides the right level of protection for heritage assets."

We **disagree**. ICE's Panel for Historical Engineering Works is concerned that the draft Framework provides too little protection for non-designated heritage assets. While welcoming the Government's general intentions (paragraph 177), it would be useful to clarify that the term "heritage assets" applies to both designated and non-designated assets. In particular, it is suggested that paragraph 185 requires to be strengthened.

QB1.3: What impact do you think the presumption in favour of sustainable development will have on

the balance between economic, environmental and social outcomes?

As drafted, we are concerned that the NPPF favours short-term economic growth at the expense of environmental, social and longer-term aspirations.

QB1.4: What impact, if any, do you think the presumption will have on the number of planning appeals?

We agree with the Government's own impact assessment that, as it stands, the draft NPPF could lead to an increase in the number of appeals. Some of these will simply be the testing of new definitions and policies but the relative looseness of the Framework's drafting and the wide scope for local interpretation that is allowed may see a higher level of appeals being a more permanent feature.

Conversely, the incentive that the Framework gives planning authorities to prepare up-to-date plans (plus the mooted transitional arrangements) could improve the current situation whereby robust and up-to-date local policy is often lacking and appeals are a developers' means to take advantage of the ensuing uncertainty.

QB4.2: What impact will the Local Green Space designation policy have, and is the policy's intention sufficiently clearly defined?

The provisions for "Local Green Space" (paragraphs 130-132) designations are somewhat unclear. Where there are particularly valuable and irreplaceable spaces not covered by existing designations then protection is appropriate. It should not be possible to use the designation as a general anti-development tool, however.

Other issues

We have a number of comments that do not easily fit within the consultation's very specific structure:

- it is unclear how scale-based requirements (e.g. traffic impact assessments, Section 106 or Community Infrastructure Levy payments) might be applied where planning permission has been given under Neighbourhood Development Orders (NDOs)
- the relationship with the National Infrastructure Plan should be clarified and strengthened
- we think that the removal of waste policy should be reviewed: while the forthcoming waste strategy may contain excellent coverage of planning issues, why was this approach adopted for only one sector? Is it an appropriate treatment, and – if so – would it be appropriate to other infrastructure or other planning issues? Or are there cross-cutting planning goals that may be lost if policy is distributed amongst sector-specific (and perhaps not primarily) planning-focused strategies?

All the above comments are only a summary of the feedback available from our collective expertise of promoting infrastructure projects through the English planning system. ICE would be pleased to assist further with development of the NPPF.

Many thanks for your attention.

Yours sincerely

Geoff French
ICE Vice President and Localism Panel Chair