



Commentary on the Changes to the Planning Practice Guidance (PPG), relating to Housing for Older and Vulnerable People made on Saturday 21 March 2015

This brief commentary discusses and explains the recent changes made to the PPG on older people's accommodation, particularly specialist care accommodation

WHY IS THE PPG IMPORTANT?

The PPG sits alongside the National Planning Policy Framework (NPPF) and they set out the planning policy of the government. The documents are used to guide the formation of development plans and also help determine planning applications. At its simplest the NPPF can be said to be the strategic vision and the PPG how you should put that vision into practice.

The PPG (and the NPPF) are documents that the government update from time to time. They are a web based resource that anyone can access. Sometimes changes have gone through a consultation and impact assessment and at other times the changes just take place. In this case the change has just taken place following a speech in Parliament by Brandon Lewis MP on 20th March 2015. He is the Minister of State for Housing and Planning at the Department of Communities and Local Government (DCLG). The speech can be found here <http://www.parliament.uk/documents/commons-vote-office/March%202015/20%20March/4.DCLG-Housing-update.pdf>.

This speech explains the purpose of the changes:

“...we are publishing updated planning guidance to reinforce our expectation that all local planning authorities will assess and plan to meet the diverse housing needs of older people in their local communities. Local planning authorities need to be clear about the future level of both general and specialist accommodation that is needed for older people in their area”.

It is important to remember that the PPG is guidance and not law. As guidance it must be taken into account in the formation development plans and as a material consideration in planning decisions. One of the planning acts states that the decision on a planning application must be taken in accordance with the development plan unless there are material considerations that indicate otherwise. So the adopted development plan is the starting point in an application and the PPG or NPPF, like any other matter, might cause the decision not to be taken in accordance with the plan. The plan however is the primary consideration and it would have been adopted taking into account the national policy in place at that time. Adopted plans can become dated by age or when national guidance is updated and in those circumstances the guidance can supercede an adopted development plan.

In planning applications the decision maker can have a difficult time balancing the development plan with new national guidance. Perceived conflict between the guidance and a development plan has led to legal challenges on application/appeal decisions. The balancing exercise can easily become subjective because there can be many different views on what is a significant material consideration compared to another matter. There are also different interpretations of the meaning of guidance and the adopted plan.

BACKGROUND TO CHANGES

There had been anticipation of these changes and also optimism that they would be significant for the care industry given the general election and also the high levels of interest in the media connecting specialist accommodation to potential savings in the NHS, social care budgets and pressure on A&E/hospitals. Many of these press articles explained the benefits of downsizing freeing up homes for families and younger people.

Some of these articles made reference to a Knight Frank report from December 2014. It is a very good report <http://content.knightfrank.com/research/696/documents/en/retirement-housing-2014-2388.pdf> and highly recommended. It makes an excellent argument for more housing for older people of all types including specialist care accommodation. It contains most of the arguments Tetlow King Planning will make in applications and planning appeals for specialist housing. This report and other articles, on subjects such as cuts to social care budgets/bed-blocking, all pointed to a pressing need to increase the delivery of older people's accommodation of all types.

This anticipation was fuelled due to the Chief Planner at the DCLG saying at a conference in September 2014 that tackling Councils' failure to plan for an ageing population is "*an issue we need to address*" and also saying that a mix of housing uses "*..isn't actually happening on the ground*".

The changes that have now arrived and the accompanying speech cover a number of topics in addition to pure planning matters. These include Phase 2 of the Care and Support Specialised Housing Fund, Right to Buy and Council house building but here we just look at planning matters. The Right to Buy Social Mobility Fund will be of interest to providers of specialist accommodation for older people because it passes funds to those with a Right to Buy to purchase a more suitable property away from their current home i.e. taking your discount with you.

PLANNING POLICY AND OLDER PEOPLE

New and recent development plans tend to deal with housing for older people in two main ways related to making all new housing more suitable and more adaptable. The first is a general policy that says new housing should reflect the population of the local area. Some of these become more sophisticated specifying bedroom numbers, mix on individual sites, percentages of lifetime homes, wheelchair friendly and so on. Basically this is a policy making new housing more reactive to the population. The second type of policy is one that seeks to make all homes more adaptable and suitable essentially the ethos of lifetime homes. The policies are seeking to make new homes more suitable for older people but also other population groups – families, single people, disabled people and so on

Planning is not the only contributor to this as the building regulation system has been making new homes more accessible and usable for many years now. Lifetime homes has also been an important part of this but a recent DCLG review of housing standards estimated that only 31% of new homes are currently built to this standard which is expected to rise to 45% by 2024. This of course only applies to new housing and while these policies are good and much needed they are only part of what we need. Their purpose is not to deliver higher dependency specialist accommodation.

On specialist accommodation new plans in the recent past have included generic policies that said new care development will be acceptable (normally within development limits) subject to a list of criteria. These policies are mainly about care homes and not C2 extra care units or other modern innovations such as care villages. In very recent times, since the publication of the PPG last year, we are seeing policies coming forward that are making reference to care villages and extra care. These are often criteria based policies and some are even allowing (in certain circumstances) development outside of settlements recognising that they cannot compete with house builders on allocated sites and that a care village or significant extra care scheme cannot be accommodated in settlement limits. However I am aware of less than a handful of these.

WHAT ARE THE CHANGES RELATING TO OLDER PEOPLE'S ACCOMMODATION?

The changes have added wording to various existing paragraphs of the PPG and in one place a new paragraph has been added:

1. Paragraph 7 of the section "*Housing and Economic Development Needs*" has been altered. This section already contained a list of stakeholders who Councils should involve at the earliest stage possible in plan preparation. This addition adds developers specialising in older people's housing;
2. Paragraph 21 of the same section is amended, within a sub section called "*How should the needs for all types of housing be addressed*"? Additional wording has been added to a paragraph

called "*Housing for Older People*". Paragraph 21 was already one of the most important paragraphs in the PPG. It says that the need to provide housing for older people is "*critical*" due to new household creation. Thankfully that phrase remains.

There are two changes; the first explains that plan makers, who already need to consider the size, location and quality of homes for older people in the future, are doing this to allow older people to live independently and safely in their own homes for as long as possible or to move to suitable accommodation if they so wish. It then goes onto add that "*Supporting independent living can help to reduce the costs to health and social services*".

The second change says that "*many older people may not want or need specialist accommodation or care..*". It then says older people may wish to stay in general housing that is already suitable "*..such as bungalows..*" or homes that can be adapted to meet the changes in their need. The final part of this is that Councils should identify particular types of "*general*" housing as part of their assessments such as bungalows and homes that can be adapted as needs change;

3. Paragraph 37 of a section entitled "*Housing and economic land availability assessment*" within a sub section, on the methodology of such assessments carried out by those preparing development plans, called "*How should local planning authorities deal with housing for older people?*", has an additional paragraph inserted. This says that evidence that homes designed for older people will free up under-occupied housing for other groups will be a demonstration of a market need that will support the approval of such homes;
4. The final change is a new paragraph added to the section on "*Local Plans*" in the subsection "*Key Issues*". This new paragraph is answering a question "*How should local planning authorities express the need for different types of housing in their Local Plan?*" Overall this is a paragraph saying that Councils should identify specific sites for all types of housing to meet their anticipated housing requirement saying "*..this could..*" include sites for older people including accessible mainstream housing such as bungalows, step free apartments, sheltered or extra care, retirement and residential care homes. It then goes onto say when Councils do not consider it appropriate to allocate such sites they should ensure they have policies in place to say when/where such homes will be permitted which might include setting numerical targets for them.

WHAT CAN THE CARE ACCOMMODATION INDUSTRY EXPECT FROM THESE CHANGES?

In total the changes amount to less than 300 words spread across several sections of the extensive PPG. This spreading of the message across 3 different sections is an issue in itself and follows on from a criticism I had on the original PPG that the message was diluted. Rural Housing and Starter Homes have their own sections. It is very disappointing that older people's housing did not warrant a section. Critics of this view however will say that other topics like affordable housing have no separate section but I would argue, as some in the media have, that building increased numbers of older people's accommodation is such a "*no brainer*" to directly address our "*dysfunctional*" housing market and impact on care spending that it does warrant special treatment.

Our answer to the question of what the industry can expect from these changes is in my view "*nothing significant in the short term*" but as more development plans move through the system the changes will have an impact. These changes are not the game changer that I and many had hoped would immediately boost the delivery of all types of older person's accommodation in the short to medium term. In my view the changes are simply altering what was already said in the NPPF and the PPG.

The changes are heavily slanted towards development plan formulation rather than individual planning applications. They will produce better development plan policies but it can take years for guidance to move into development plans and have an impact. On occasions changes in national policy can be instantaneous but there is no reason, because of what is said, to believe that this will be the case here.

The changes will be of use in planning applications but in a limited way. The most useful would be point 3 above. This is saying that if you have evidence that your scheme will free up larger properties in a local area you will have a strong material consideration in your favour. This fact or issue is

already made in nearly every application or appeal that is submitted on care accommodation. Development plans have included it in new policies in recent times. The PPG already said “..providing more options for older people to move could also free up houses that are under occupied”. The benefit and material consideration was already implicit in that statement and could be used to good effect if you gathered the right evidence in your application. The change has made it more overt and it does encourage the care industry to gather more information on this issue when preparing any application but the matter was already having an impact.

The added wording “*Supporting independent living can help to reduce the costs to health and social services*” is very good. This statement of a link between costs to the NHS/social care budgets and more suitable accommodation has been made by numerous government ministers for around 10 years even in the previous government. The odd thing here is why this obvious and much repeated statement, which is supported by numerous studies and evidence, has taken so long to be placed in national planning guidance. This issue was and is already being used in planning applications and appeals. Hopefully it can now be given more weight in planning decisions and in making development plans.

CONCLUSION

In point 1 above one of the changes says “..many older people may not want or need specialist accommodation or care..” and then goes onto say that Councils should make sure their assessments of the need for general housing includes units that can be adapted to suit changing needs. That appears to me to be the purpose of nearly all of these changes – making new general housing more suitable. This is laudable, needed and very important. But it is not a rallying cry to put in place a planning system that will deliver more care related specialist housing such as C2 extra care or care villages that recognises the difficulties that the industry faces in terms of clarification of the use class, competition with other land uses (particularly general housing) and a lack of planning policy at the present time.

The PPG already contained phrases that increased the profile of the specialist care sector. It already told local authorities to include these in assessments that would help form development plans. These changes meant the sector is being drawn into the expensive and complicated world of the assessment of general housing in a way it was not before. One of the most important appeal decisions of recent times was Tiddington Fields in Stratford on Avon and that allowed C2 extra care units in a place where there was a moratorium on general housing because too much had already been built or granted but the Inspector said the C2 units were outside that system and he could approve these because they were not part of that need calculation. The PPG from last year and these new changes will make that decision more difficult when assessments eventually do include extra care and care beds in a robust way. It remains to be seen what impact they will have on the level of those housing figures.

Recent planning appeal applications and examinations of development plans have already been taking into account the projected need for extra care and care home beds. This will increase in the future. At present you can have a settlement that has been allocated as having 1,500 dwellings over the next 25 years in an adopted plan and suddenly your care home and extra units are being argued as part of that figure even though the assessment that calculated that figure, at this point in time, did not properly assess the need for these things. You will make that point very strongly in your application but it is an expensive and time consuming argument which you might not win.

These changes mean that the care sector will have to engage in the assessment of housing need in a way that it has not done to such an extent in the past and it will have to engage in the formation of development plans in a much more robust way. The PPG already said that the supply of older people’s accommodation was “critical” i.e. one step from disastrous but instead of these changes making the care sector special and encouraging it we are instead further drawn into a the competitive world of general housing without being made distinct from it.

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