



# michelmores

## Planning & Property Bulletin

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# The power of the PPG: Court of Appeal rules that Planning Practice Guidance has “equivalent” legal status to NPPF

The recent case of *Mead Realisations Ltd v Secretary of State for Housing, Communities and Local Government* [2025] has clarified the status of the Planning Practice Guidance (**PPG**) in relation to the National Planning Policy Framework (**NPPF**).

The background of the case concerned an application for up to 75 homes at Lynchmead Farm near Weston-Super-Mare. North Somerset Council (**Council**) refused the application on the basis that the proposal was contrary to the flood risk sequential test in the NPPF and development plan.

The sequential test in the NPPF aimed to “steer new development to areas with the lowest risk of flooding from any source”.

Despite an appeal from the developer, the decision was upheld by a planning inspector on the same grounds. In their reasoning, the planning inspector referred to the PPG and concluded that there were “reasonably available sites for residential development appropriate to the proposed development on land with a lower risk of flooding” than the appeal site.

The developer appealed the decision up to Court of Appeal on the ground that the PPG was “subservient” to the NPPF and could therefore not create additional requirements or restrictions.

The Court of Appeal disagreed. It held that there was “no legal distinction” between the PPG and NPPF and that guidance in the PPG on the sequential test was consistent with policy in the NPPF. There has historically been an assumption that the PPG was, to an extent, subordinate to the NPPF, however the decision in *Mead* has placed doubt on this understanding. *Mead* suggests that the NPPF should now be read alongside the PPG, which puts more emphasis on the role of the PPG in planning decisions. The decision will have significant ramifications for how decision-makers and developers take into account the flood risk sequential test in future applications. Practitioners have also commented that the effects of the ruling are likely to be felt beyond just considerations of flood risk.

To read the full judgment, click [here](#).

**Source:** CASEMINE.

## The future of BNG: concerns raised over scrapping rumours

Biodiversity net gain (**BNG**) aims to create and improve biodiversity through the requirement that development has a positive impact on biodiversity.

The BNG regime has been mandatory for major developments since 12 February 2024 and expanded to minor sites on 2 April 2024. It has provided a mechanism to ensure that developments are as environmentally responsible as possible.

There are, however, rumours circulating that have brought into question the future of the BNG regime. The ENDS Report recently revealed that the government is raising questions about whether the current BNG policy is required after it declared plans to change development and nature rules.

The chair of Natural England, Tony Juniper, is reported to have commented that nature would be worse off if BNG rules are scrapped. As the government continues to prioritise housing development, it brings into question what sacrifices will need to be made to meet those targets.

Michelmores is at the leading edge of BNG and our well-placed contacts in government are indicating that these rumours are ill-founded and that the BNG regime is not likely to be changed.

**Source:** [Planning Resource](#).

## Nutrient neutrality case reaches Supreme Court

The recent case of *C G Fry & Son Limited v Secretary of State for Housing, Communities and Local Government* [2024] is due to be heard in the Supreme Court this month.

The case concerned outline planning permission granted back in 2015 for a mixed-use development of up to 650 houses. The development was due to progress in eight phases, however when reserved matters approval was obtained for phase 3, Natural England issued an advice note identifying potential adverse effects of development upon the integrity of the site. Natural England were of the view that an appropriate assessment should be carried out.

The developer, C G Fry, later sought discharge of various pre-commencement conditions of the reserved matters approval, however Somerset Council withheld approval on the grounds that an appropriate assessment needed to be carried out under the Habitats Regulations.

The Supreme Court will decide whether appropriate assessment under the Habitats Regulations, in the context of nutrient neutrality, can be required at the discharge of conditions stage in relation to development already granted planning permission.

You can read the Supreme Court fact summary and track the progress of the case [here](#).

**Source:** Supreme Court UK

## Bath & North East Somerset resets local plan following NPPF update

The recent updates to the NPPF have revised housing figures nationally. Bath & North East Somerset Council (**Council**) have been one of a number of local authorities who have announced delays to its local plan submission following the change to national policy.

The Council initially based its local plan on around 14,500 homes by 2042, however the recent changes to the NPPF increased its local housing need figure by 105% or 29,000 units over 20 years.

Consultation on the final draft plan will now start in March 2026 and adoption of the plan is expected in June 2027.

**Source:** [Planning Resource](#)

# BNG figures fall short of government estimate

Just over one year after the implementation of BNG for major developments, recent research has concluded that BNG habitats amount to only 13% of the government estimate.

Environment and wildlife coalition group, Wildlife and Countryside Link (**WCL**) reported the findings based on Freedom of Information requests sent to the 317 local authorities in England.

Under the BNG scheme, only 680 hectares of land offsite and 93 hectares on-site has been reported by local authorities since the introduction of the policy. This is significantly under the 5,428 hectares of habitat that the Department for Environment, Food & Rural Affairs predicted at the outset.

An additional 786 hectares of land have been proposed by local authorities as potential offsite habitat banks, however these are yet to be approved.

The CEO of WCL highlighted the gaps that are evident in the BNG scheme and commented “BNG is full of potential, but it’s also full of holes. Holes in ambition, which remains limited to just about offsetting harm to habitats. Holes in implementation, with huge numbers of planning applications falling through the gaps. And holes in enforcement, with no way to check that many of the promised gains for nature ever happen.”

WCL has joined several other environmental groups including the RSPB, WWT, The Wildlife Trusts, Woodland Trust and CPRE on a campaign to push ministers to ensure planning reforms work to restore nature.

To read WCL’s findings, please click [here](#).

**Source:** [LocalGov](#).





## Testing the grey belt: 550 homes approved by St Albans City and District Council

Following the introduction of the "grey belt" in the revised NPPF, St Albans City and District Council (**Council**) have now approved an application to build 420 homes and 130 retirement homes on farmland near Harpenden, Hertfordshire.

The 420 homes include of 210 affordable units and an additional 130 extra care units.

The updated NPPF introduced the concept of "grey belt" land, which is defined as previously developed land or land that does not strongly contribute to the three green belt purposes; checking the unrestricted sprawl of large built-up areas, preventing neighbouring towns merging into one another or preserving the setting and special character of historic towns.

The Council planning committee meeting took place on 17 February and assessed the metropolitan green belt with the view that the site did not strongly contribute to the three green belt purposes. The committee reached the conclusion that the site would fall under the grey belt category.

Officers also took into account the demand for housing in the area, particularly on the basis that an inspector had previously found that the Council could only demonstrate a 1.7-year supply of housing sites. The affordable units and 130 extra care units were also given "very substantial weight".

The Council narrowly voted to approve the development by five votes to four. The decision is just one of many that signal a new era in the planning sphere focused on the increased housing targets implemented by the government.

The approval also demonstrates how the grey belt concept could be applied in future cases.

To read the full article, please click [here](#).

**Source:** BBC.

# Our people

(Click on lawyer image for website profile)



**Mark Howard**  
**Partner**

mark.howard@michelmores.com  
+44 (0) 7791 949401



**Helen Hutton**  
**Partner**

helen.hutton@michelmores.com  
+44 (0) 7775 542629



**Fergus Charlton**  
**Partner**

fergus.charlton@michelmores.com  
+44 (0) 7561 113418



**Harriet Grimes**  
**Senior Associate**

harriet.grimes@michelmores.com  
+44 (0) 7568 429670



**Sarah Reardon**  
**Associate**

sarah.reardon@michelmores.com  
+44 (0) 7834 177544



**Grace Bravery**  
**Solicitor**

grace.bravery@michelmores.com  
+44 (0) 7719 561306



**Abbey Chiswell**  
**Trainee Solicitor**

abbey.chiswell@michelmores.com  
+44 (0) 7907 710690



**David Blakeley**  
**Senior Paralegal**

david.blakeley@michelmores.com  
+44 (0) 7973 625092

# Contact us

[enquiries@michelmores.com](mailto:enquiries@michelmores.com)

+44 (0) 333 004 3456

[michelmores.com](http://michelmores.com)

## **Bristol**

10 Victoria Street  
Bristol  
BS1 6BN

DX 7832 Bristol  
+44 (0) 117 906 9300

## **Cheltenham**

Eagle Tower  
Montpellier Drive  
Cheltenham  
GL50 1TA

+44 (0) 330 175 8240

## **Exeter**

Woodwater House  
Pynes Hill  
Exeter  
EX2 5WR

DX 135608 Exeter 16  
+44 (0) 333 004 3456

## **London**

100 Liverpool Street  
London  
EC2M 2AT

DX 63 London Chancery Lane  
+44 (0) 207 659 7660