

Note for Associated Retirement Communities Operators (ARCO)

Recent Changes to National Town Planning Policy Planning Practice Guidance (PPG) on Specialist Elderly Care Accommodation dated 26th June 2019

1. Introduction

The Government has made changes to the PPG on 26 June 2019 with regards to "*Housing for older and disabled people*". This brief note intends to explain these changes, what they might mean and the implications for developers/operators of such accommodation.

2. As with all such changes there are good sections and then parts that are not as good. But this update is peculiar, overall it is more of an amalgamation of current advice with some additions. Not all of these are positive and certainly not as positive as they could have been for the industry and developers looking for a higher degree of certainty and the opportunity to find and develop sites in the face of proven shortages and need for such accommodation.
3. The PPG is a companion document to the National Planning Policy Framework (NPPF). The NPPF sets out the government's planning policies for England and how these should be applied. The NPPF must be considered in preparing the development plan and it is a material consideration in planning decisions.
4. It is always important to note that the NPPF and PPG are not legislation. Separate planning law requires that applications for planning permission must be determined in accordance with the development plan/local plan, but those plans must be produced in accordance with the NPPF and the PPG. It can be argued that the local development plan has more importance to decisions on applications but of course that plan will have been adopted based on the national guidance in the NPPF and the PPG.
5. It can be said that the NPPF is the strategy and the PPG is the more detailed guidance, in some parts; technical guidance.
6. Both documents are very important to developers and operators because they help define what is placed in local plans and thus how much priority is given to care development in those individual plans in a local area which in turn significantly determine how individual planning applications are determined.

The Changes to the PPG on 26th June 2019

7. One of the most significant changes is that the topic of housing for older people has been given its own section "*Housing for older and disabled people*" <https://www.gov.uk/guidance/housing-for-older-and-disabled-people> .

8. Some lobbying and pressure groups representing those individual groups could potentially take umbrage at these being combined in this way. There are of course some similarities in the two groups but also significant differences in their needs and requirements.
9. The combining of the two groups can be seen to sit uncomfortably at the beginning of the new section. The first paragraph is called: *Why is it important to plan for the housing needs of older people?* The second is called: *Why is it important to plan for the housing needs of disabled people?* Thus, the new section that has added these two groups together immediately separates them. The joining and then immediate separation appears incongruous.
10. The section carries on in this manner i.e. separate paragraphs, asking the same question but changing the subject group. Whilst in other places the two groups are combined into single paragraphs where the matters being discussed concern both groups.
11. The creation of a housing for older people section has been something that has been requested many times in recent years. Several parties referred to the lack of a separate section on housing for older people, including Tetlow King Planning and ARCO, in various forums including the Select Committee Housing for Older People Inquiry which was published in February 2018.
12. We explained at that time that the references to older people were hidden away in different sections. One of the points we made was that:

“There are 48 main sections to the NPPG. To pick a pertinent example, one of these is ‘rural housing’. If ‘older people’s housing’ is really important why is it not similarly identified, highlighted and dealt with in a comprehensive manner? It does not necessarily follow that this part should be very long and detailed. Many of our clients in exploring the NPPG complain that they cannot find the helpful references that we have tried to refer them to”. (Tetlow King Evidence to Select Committee on Housing for Older People February 2018)
13. The introduction of a separate section within the PPG for older people is welcomed. It gives a higher degree of prominence to the subject and less ability for decisions makers and local authorities to ignore the issue or not give it the weight that it does deserve based on the evidence from demographics, existing supply and social care policy. Overall it is the most important change that has been made to the PPG, but we need to move on and see what the actual content is which is set out below:
14. The new section has 5 sub-sections which are as follows and will be analysed in turn below:
 1. Introduction;
 2. Identifying the housing requirements of older and disabled people;
 3. Accessible and adaptable housing;
 4. Specialist housing for older people;
 5. Inclusive design.

Section 1: Introduction

15. The introduction contains those first two paragraphs, mentioned above, and one of these asks, *“Why is it important to plan for the housing needs of older people?”* This section has essentially been copied from the previous version of the PPG section called *“Housing and economic needs assessment”* and a subsection of that called *“How should the needs for all types of housing be addressed?”* There was a section called *“Housing for older people”* alongside other groups including family housing, self-build, housing for disabled people, student housing and the private rented sector.

16. The three paragraphs in that previous PPG section on older people have now essentially moved into the new amalgamated separate section on older people. It is the first of these paragraphs that includes the very important quote that *“the need to provide housing for older people is critical”*. The crucial change is that figures have been introduced since the last change in February 2019 offering an explanation on why the need is critical:

“People are living longer lives and the proportion of older people in the population is increasing. In mid-2016 there were 1.6 million people aged 85 and over; by mid-2041 this is projected to double to 3.2 million”.

17. The new paragraph moves on to say:

“Offering older people a better choice of accommodation to suit their changing needs can help them live independently for longer, feel more connected to their communities and help reduce costs to the social care and health systems. Therefore, an understanding of how the ageing population affects housing needs is something to be considered from the early stages of plan-making through to decision-taking”.

These statements on offering choice and impact on budgets were already in the existing PPG. But the wording is more direct and thus is a positive amendment.

18. The final part of that paragraph says *“...an understanding of how the ageing population affects housing needs is something to be considered from the early stages of plan-making through to decision-taking”*. That is essentially a new statement specifically on older people. This again is a positive addition.

19. Having said that, the PPG did say in the past that the need for specialist accommodation for older people *“...may need...”* to be broken down by tenure and type which can be obtained from several online sources and their needs identified. The new PPG does use essentially the same wording later (specifically referencing the Housing LIN Shop toolkit) but the new wording, on the needs being considered in the early stages of plan production, is important and positive. It could be argued it strengthens the rather tame *“...may need...”* phrase. It has been an issue in relatively recent development plans that the needs of older people are almost seen as an afterthought with updated evidence documents being produced at later stages in the process towards adoption.

Section 2: Identifying the housing requirements of older and disabled people

20. Within this section there is the new reference to the Housing LIN toolkit but any more substantive changes are very difficult to spot. It cites different evidence sources to assess need but none that are different from those already referenced. Although it must be said that the wording is altered on how they might be used.

21. It goes on to state:

“Plan-making authorities should set clear policies to address the housing needs of groups with particular needs such as older and disabled people. These policies can set out how the plan-making authority will consider proposals for the different types of housing that these groups are likely to require. They could also provide indicative figures or a range for the number of units of specialist housing for older people needed across the plan area throughout the plan period”.

22. This is a much more overt and direct statement than existed in the previous PPG. Although many might argue the NPPF and PPG said this already, this is much more direct about older people particularly in the first sentence. This should help new development plans avoid some of the ineffective policies which do not really say anything of any consequence which a developer can work with in delivering units for older people on the ground.

23. This section ends with a paragraph on monitoring but again this is not saying anything new when compared to what was there before.

Section 3: Accessible and adaptable housing

24. This section is useful and is talking about making general housing more accessible for older and disabled people through planning policies. This is something the Building Regulations has been doing for many years. It gives the ability and encouragement to have policies that specify the numbers of the three different accessibility criteria types under the Regs applied on larger standard development sites e.g. 5% wheelchair Part M4 class 3 houses or 10% Part M4 class 2 houses. Many Council have had such policies like this for many years.

Section 4: Specialist housing for older people

25. This section has added in definitions of different types of specialist accommodation. This is new and covers age-restricted general market housing, retirement living or sheltered housing, extra care housing or housing-with-care (reference is made to retirement communities or villages) and then residential care homes and nursing homes. It then says there is a significant amount of variability in the types of specialist housing. It provides a caveat that the list is an indication of the different types of housing available but is not definitive and that any single development may contain a range of different types of specialist housing. This is a positive addition.

26. The next paragraph introduces new wording on senior co-housing communities that are created and run by residents. It then references the self-build legislation stating that plan-making authorities can also identify sites suitable for senior co-housing communities.
27. There is then a paragraph entitled: *“Do plans need to make specific provision for specialist housing for older people”*? The first sentence of this says, *“Plans need to provide for specialist housing for older people where a need exists”*. That again is an overt and direct statement which was not stated so explicitly before. There is no *“could” “might” or “may”* precursor diluting an action or requirement. This must be viewed as a positive change. Other than the creation of a new section this is arguably the most positive change of the PPG. The rest of the paragraph is essentially the same wording.
28. Another paragraph follows called: *“Do plans need to allocate sites for specialist housing for older people”*? This is essentially the same as in previous PPG versions – it is up to the Council on how it wants to do this – but there is new wording saying, *“Allocating sites can provide greater certainty for developers and encourage the provision of sites in suitable locations”*.
29. The following paragraph asks: *“How does the use classes order apply to specialist housing for older people”*? As has been the pattern over recent years after considerable lobbying and recommendations from various government and non-government departments the PPG does not provide clarity on the Use Class. It gives the same response that the government gave to the Select Committee last year. It says that it is for a local planning authority to consider into which use class a development may fall. When determining whether a development for specialist housing for older people falls within C2 or C3 of the Use Classes Order, consideration could be given to the level of care and scale of communal facilities provided.
30. This is effectively saying nothing and therefore giving no advice to the industry or local government who are left to fight and argue between each other on the same topic from area to area. This issue has been identified as a significant deterrent to new investment and the cause of delay by many industry organisations. There is simply no assistance from the government on this identified barrier to delivery and investment. The next paragraphs refer to viability. It is interesting because when the Select Committee recommended clarity and advice at a national level on the C2/C3 topic, the government responded saying that there is no need to have advice because viability can resolve this *“We do not think that a change to the use classes order would make a difference as charging authorities are not restricted to setting the rates of developer contributions in line with the use classes Order”*.
31. The PPG has not said this overtly in these changes, but it must be the continuing reason no clarity or advice is offered. Viability applies to both development plan polices and individual applications to determine contributions. It’s the individual planning applications that are the issue with viability. Council’s have of course always been able to charge different types and levels of contributions on different types of development. If C2 extra care or care homes are viable then it can have contributions such as affordable housing applied to it.

32. Councils are doing this already through development plans and other charges like Community Infrastructure Levy in different parts of the country. They do this because they have looked at viability of development plan policies.
33. What the government is missing though is that because of their lack of clarity at national level on the Use Class it means that we end up swapping one difficult argument – C2 or C3, with another time consuming and difficult argument on viability.
34. The viability section says nothing new, but says it applies to policy making in development plans and individual planning applications thus as I said swapping one difficult and constant argument about C2 with another on viability.

Section 5: Inclusive Design

35. This section is useful. It includes many of the things that the care industry has been doing in the past on accessibility and seeks to spread these to wider environment and built development. A further section follows: *“How can for the needs of people with dementia be addressed”*? This is a new section and it is positive. It explains that *“People with dementia need to have access to care and support to enable them to live independently and homes need to be designed with their needs in mind”*. It is very difficult to see how this need for care, support and supervision can be met other than in specialist housing as opposed to percentages of larger development sites being M4 class 2 or 3 accessible (under the Building Regs). It can be argued that this section is very positive on the benefits that care villages and extra care in general can bring to people with dementia continuing to live independent lives for as long as possible.

Conclusion

36. Overall it is positive that the topic of older people now has its own section like self-build or rural housing in the PPG. It will be harder for planning decision makers to avoid or circumvent the issue in the future. There are other positives with some small changes to planning policies to be contained in development plans which are more overt and direct. However, the disappointment on the Use Class issue can be said to overwhelm these positives.
37. In time, these changes, will have a beneficial impact on delivery as more up to date local plans are adopted. However, anyone seeking evidence of a sea change in priorities to increase delivery of this beneficial development which seeks to respond to significant demographic change and massive pressure on scarce public resources, will not find it here.

John Sneddon BSc (HONS) MRTPI
Managing Director

TETLOW KING PLANNING

Unit 2, Eclipse Office Park, High Street, Staple Hill, Bristol, BS16 5EL

John.sneddon@tetlow-king.co.uk