

Consultation: Proposed reforms to the National Planning Policy Framework (NPPF) and other changes to the planning system

Written Submission of the National Contaminated Land Officers Group

Submitted via e-mail and online form: March 2026

The [National Contaminated Land Officers Group](#) (NCLOG) is the voice for Contaminated Land Officers (CLOs) in the UK.

NCLOG has over 270 members working as contaminated land professionals in local authorities. The community works together to promote high-quality and consistent regulation and management of land contamination across the sector. We provide a home for CLOs to share ideas and knowledge, support members through developing guidance and resources and provide peer support to individual CLOs, who may be the sole individuals dealing with land contamination in their local authority.

NCLOG has strong links with regional Contaminated Land Officer Groups (CLOGs) and those in the devolved administrations through our Regions Forum. We are a member-led community at the [Institution of Environmental Sciences](#) (the IES).

Questions

This response includes answers to the following questions: 14, 22, 24, 30, 43, 165, 166, 177

14) Do you agree with the approach to identifying land for development in PM9?

Strongly agree, partly agree, neither agree nor disagree, partly disagree, strongly disagree.

a) Please provide your reasons, particularly if you disagree.

Partly agree.

NCLOG supports the overall approach to identifying land for development in PM9. The policy, through its reference to the Local Plan within the footnotes, implies a preference for prioritising previously developed land. However, this reliance on implied interpretation risks inconsistency in application.

Greater clarity could be achieved by explicitly adopting the term “brownfield first” within PM9. This would strengthen national policy direction, promote the effective reuse of previously developed land, and support sustainable land management and remediation objectives.

22) Do you agree with the policy DM2 on information requirements for planning applications? *Strongly agree, partly agree, neither agree nor disagree, partly disagree, strongly disagree.*

a) Please provide your reasons, particularly if you disagree.

Strongly agree.

NCLOG supports policy DM2 and consider it provides an appropriate and proportionate framework for information requirements associated with planning applications. In particular, we welcome the inclusion of ground conditions within Annex C. This is essential to ensure that potential risks relating to land contamination are appropriately identified and assessed at an early stage.

24) Do you agree with the principles set out in DM3? *Strongly agree, partly agree, neither agree nor disagree, partly disagree, strongly disagree.*

a) Please provide your reasons, particularly if you disagree.

Strongly disagree.

NCLOG strongly disagrees with the principles set out in DM3 paragraph 1(d), which proposes that statutory consultees should be engaged “only where it is necessary to do so”.

This wording risks significantly undermining effective regulatory oversight. In practice, planning agents and decision-makers are often operating under considerable time and resource pressures. The proposed phrasing creates ambiguity and potential loopholes that may result in statutory consultees, including the Environment Agency, and non-statutory consultees, including Contaminated Land Officers within local authorities, not being consulted when their input is essential. Without early engagement with all stakeholders, regulators may be unable to meet requirements set out elsewhere in the NPPF, for example relating to pollution, public protection and security.

The proposed approach risks creating a false economy. Early involvement of Contaminated Land Officers and other relevant consultees helps to identify constraints, risks, and mitigation requirements at the earliest possible stage. Failure to secure appropriate input during the application process frequently results in delays, increased remediation costs, and greater risks to public health and the environment later in the development lifecycle.

In order to correct this, the term “necessary” should be appropriately defined. It is currently unclear how necessity would be determined, who would be responsible for making that judgement, and whether it would take precedence over other policy requirements relating to pollution, land quality, public health, and environmental protection. To provide clarity and ensure consistency, the wording should be amended to state that consultation is “*necessary as guided by other relevant policies within the NPPF, for example where there may be potential impacts on public health.*”

Furthermore, DM3 does not emphasise the importance of applicants meaningfully engaging with and responding to advice from statutory and internal consultees. NCLOG members frequently encounter submissions supported by inadequate or poor-quality technical information. Clearer expectations that applicants must properly consider and address consultee responses would improve application quality and decision-making efficiency.

Finally, this policy highlights the ongoing concern that land contamination remains a non-statutory consultation matter. Given the potential risks to human health, controlled waters, and long-term land use, and that the planning system works in conjunction with Part 2A of the Environmental Protection Act 1990, we consider that land contamination should be recognised as a statutory consultation issue, with both local authority and Environment Agency regulators consulted.

30) Do you agree that policy DM7 clarifies the relationship between planning decisions and other regulatory regimes? *Strongly agree, partly agree, neither agree nor disagree, partly disagree, strongly disagree.*

a) Please provide your reasons, particularly if you disagree.

Strongly agree.

NCLOG strongly supports policy DM7 and welcomes the clarity it provides regarding the relationship between planning decisions and other regulatory regimes.

We note that the clarity provided within DM7 highlights potential inconsistencies with policy DM3, particularly paragraph 1(d). As currently drafted, DM3 introduces ambiguity regarding whether consultation with statutory and internal consultees would be considered “necessary” to support compliance with wider policy requirements, including those set out in DM7. Effective consultation is often essential to establish the clear evidence referenced in DM7, and without such engagement there is a risk that planning authorities may lack sufficient information to confidently rely on other regulatory regimes.

43) Do you agree with the approach to mitigating climate change through planning decisions in policy CC2? *Strongly agree, partly agree, neither agree nor disagree, partly disagree, strongly disagree.*

a) If not, what additional measures could be taken to ensure climate change mitigation is given appropriate consideration?

Partly agree.

NCLOG broadly supports the approach set out in policy CC2. However, we consider that the policy could be strengthened through greater recognition of sustainable soils management.

Sustainable management and reuse of soils is an important component of reducing carbon emissions associated with construction, minimising waste, and supporting the efficient use of natural resources. While we recognise that Local Plans may include policies addressing

sustainable materials and resource management, a stronger emphasis on sustainable soils management within CC2 would provide a clear national driver and reinforce its importance within development decision-making.

In particular, paragraph 1(d) is currently too restrictive. The wording refers to re-using “non-contaminated excavated soil and hardcore within the site.” In practice, this limitation does not fully reflect established risk-based approaches to land management and the definition of “non-contaminated” is ambiguous. Excavated materials may contain elevated concentrations of contaminants of concern, but can still be suitable for reuse where appropriate risk assessment, remediation, and mitigation measures are in place. Restricting reuse solely to “non-contaminated” materials may unintentionally discourage sustainable material reuse and increase the volume of material sent to landfill, contrary to climate mitigation objectives.

This issue also aligns with ongoing sector discussions regarding the reuse of soils under DoW:CoP, including challenges associated with materials from sites such as historic landfill or complex brownfield land. Risk-based, quality-assured approaches can enable safe and sustainable reuse while maintaining protection of human health and the environment.

We therefore recommend that paragraph 1(d) is amended to read:

“Take advantage of opportunities to re-use existing structures and materials, including by re-using suitable excavated soil and hardcore within the site, and facilitating transfers between donor and receiver sites using quality-assured transfer mechanisms (such as the Soil Passport Schemes).”

165) Do you agree with policy P1 as a basis for identifying and addressing relevant risks when preparing plans? Strongly agree, partly agree, neither agree nor disagree, partly disagree, strongly disagree.

a) Please provide your reasons, particularly if you disagree.

Partly agree.

NCLOG broadly support the intent and direction of policy P1 as a framework for identifying and addressing relevant risks when preparing plans. The policy establishes an important foundation for ensuring land is suitable for its proposed use and recognises the need to consider environmental and public health impacts. However, we recommend several amendments to strengthen its effectiveness and better support the creation of safe, healthy, and sustainable communities.

P1: Suggested amendment to include ‘decisions’

Policy P1 states: “To support efforts to avoid and mitigate risks from natural and man-made hazards, minimise levels of pollution and create clean, liveable and safe places for people to live, work and visit, development plans should...”

However, paragraph 187 of the current NPPF refers to “planning policies and decisions should...”. NCLOG recommends that the revised policy wording similarly refer to both policies and decisions.

Limiting the policy to development plans risks creating a gap where contaminated land or other environmental risks are identified after a development plan has been finalised. Including “decisions” would ensure that the policy applies consistently at the development management stage, providing the necessary flexibility to address site-specific risks that emerge over time.

Clearer prioritisation of brownfield land

While we recognise that land allocation is primarily addressed through Local Plans, policy P1 would benefit from clearer national direction that reinforces a “brownfield first” approach. Prioritising the redevelopment of previously developed land supports sustainable land use, reduces pressure on greenfield sites, enables the remediation of contamination that may otherwise pose long-term environmental and public health risks and furthers local authorities’ objectives under Part 2A of the Environmental Protection Act 1990. Explicitly promoting the “brownfield-first” principle within the policy would provide greater clarity and consistency in plan-making.

P1(c): suggested amendment on nature recovery and soil health

Paragraph 1(c) currently places insufficient emphasis on the broader objective of creating clean and healthy places. The policy should extend beyond pollution reduction alone and more strongly promote nature recovery.

While we welcome the reference to “identifying opportunities for strategic nature-based solutions”, we suggest revising the wording to emphasise the need to “**actively assess wider opportunities to reduce air, water, soil and noise pollution, and improve nature recovery...**”.

Furthermore, the effectiveness of P1(c) is limited by the absence of a clear national objective for soil health. Establishing such an objective would significantly strengthen the policy’s ability to contribute to support measures to improve soil health.

166) Are any additional tools or guidance needed to enable better decision-making on contaminated land?

Yes.

NCLOG considers that additional tools and guidance are essential to support consistent, proportionate, and effective decision-making on contaminated land. While some guidance exists, further clarification and updates are needed, and responsibility for delivering this guidance should not fall solely on local regulators. Defra and the Environment Agency have not produced any significant new contaminated land guidance in the last decade - since the

update to the Contaminated Land Exposure Assessment (CLEA) tool - creating uncertainty in decision-making across a range of technical areas.

There is a strong need to improve understanding of land contamination issues among planners and developers. Some NCLOG members have reported that applications are being accepted without land contamination assessments.

Existing guidance, including the Environment Agency's *Land affected by contamination* webpage, requires updating to reflect current practice and emerging risks. While NCLOG runs educational events and produce some guidance, there is a clear need for the Environment Agency to provide formal guidance and training, working collaboratively with NCLOG to ensure it meets the needs of all Contaminated Land Officers across local authorities.

There is an urgent need for practical, accessible guidance for local authorities and planning authorities regarding PFAS contamination. Current expectations are that PFAS risks should be considered in planning and regulatory decisions, yet there is very limited guidance on which sites should be investigated for PFAS, which PFAS substances should be analysed, and how PFAS risks should be assessed and remediated.

Much of the technical and best practice guidance, such as CIRIA reports and British Standards, are not freely available, limiting access for many local authorities. While some high-level guidance has been made available, for example Environment Analyst's *Corporate Guide: Identifying and Remediating PFAS*, more detailed and technical resources are required. Nationally endorsed, publicly available guidance would support more consistent and proportionate regulatory decision-making across local government.

P2(3): Suggested amendments and clarification of terms

NCLOG also proposes specific wording changes to the P2 Ground Conditions policy to improve clarity and ensure consistency with established risk management practices.

Paragraph 3 currently states: "*Adequate site investigation information, prepared by a competent person, must be available to inform these assessments.*" We recommend replacing "site investigation" with "site assessment" to reflect that adequate information is needed for all stages of a land contamination assessment. The term 'investigation' suggests intrusive works and sampling, which may not be necessary for low-risk sites where Tier 1 preliminary risk assessments or other non-intrusive assessments can demonstrate compliance.

The policy should explicitly reference the Environment Agency's Land Contamination Risk Management (LCRM) definitions. This includes for 'site assessment' (if adopted as suggested). The term "competent person" should also reference the LCRM definition.

We therefore suggest the following amended wording:

"Appropriate site assessment information, prepared by a competent person, should inform detailed site assessment in line with the EA LCRM process. This may require site investigation in line with good practice."

These changes would ensure alignment with existing LCRM guidance, support proportionate assessment, and clarify expectations for both regulators and applicants.

167) Do you agree with the criteria set out in proposed policy P3 as a basis for securing acceptable living conditions and managing pollution? *Strongly agree, partly agree, neither agree nor disagree, partly disagree, strongly disagree.*

a) Please provide your reasons, particularly if you disagree.

Partly agree

Potential application to contaminated land regime

NCLOG want to highlight that as currently written, while policy P3 is clearly primarily intended to address post-development living conditions such as noise, air, and light pollution, it may also be relevant to contaminated land.

It is the case that cumulative effects on health from land contamination can be challenging to quantify - for example, background levels of pollutants like benzene or vapour migration from a contaminated site. However in some cases, cumulative effects such as risks from former landfill sites to nearby housing, should be considered, particularly where future residents might access open spaces on or near contaminated land. Similarly, off-site biodiversity net gain measures may intersect with land contamination considerations if the affected land lies outside the red-line boundary. As planning applications are not always required for off-site biodiversity net gain sites, and these may be in different local authority areas, impacts are harder to manage, but P3 provides a framework to assess potential effects proportionately.

P3(2)(e) - suggested amendment on chalk streams

We note that Paragraph 2(e) refers specifically to chalk streams. While chalk streams are sensitive, the policy could be simplified by referring more broadly to sensitive water bodies. In many cases, the aquifer supplying the stream is more directly vulnerable to contamination than the surface water itself, and a broader reference would better capture potential risks from land contamination.

P3(3) - support for regulatory regimes clarification

We strongly support the clarification in Paragraph 3 that planning decisions should not assume other regulatory regimes will completely control emissions; "In applying this policy, it should not be assumed that other regimes for the control of pollution will necessarily eliminate emissions completely."

Historically, it has been assumed that other regulatory regimes will work effectively, but this assumption is not always appropriate (for example, landfill gas extraction or flaring systems are not always effective). P3(3) provides clear support for requiring development to be designed to stand independently of other controls, ensuring human health and environmental protection without duplicating regulatory conditions (a balance reflected in policy DM7).

We recognise there may be concerns that developers could be held accountable for the failures or mismanagement of third parties, which could conflict with the polluter pays principle. However, the policy is carefully worded to support a precautionary approach without assigning unreasonable liability. For example, previous consultations on landfill sites have been clear that developments within 250 metres of landfill sites may need to assume some responsibility if control mechanisms fail. The wording of P3(3) also acknowledges that emissions may not be eliminated entirely and focuses on managing contributions to background risk.

In summary, P3(3) provides a practical and precautionary framework for managing pollution and protecting future residents while maintaining proportionality and consistency with other regulatory regimes. We fully support its inclusion and wording.

The existing NPPF paragraph 201 states “The focus on planning policies and decisions should be on whether proposed development is an acceptable use of land.” This text has been removed in the proposed new P3(3). NCLOG considers this to be a sound policy and it is unclear why it has been removed in the proposed version. This should be re-instated.