

Tenant Farmers Association

Proposed reforms to the National Planning Policy Framework and other changes to the planning system

1. Introduction

- 1.1 The Tenant Farmers Association (TFA) is the only organisation dedicated to representing the interests of farmers and farm businesses who do not own the land they use for agriculture in England and Wales. TFA membership comprises farms of all types and sizes but active, family farms predominate. The core membership of the TFA are farmers occupying land under tenancies regulated by both the Agricultural Holdings Act 1986 (AHA) and Agricultural Tenancies Act 1995 (ATA).
- 1.2 Day in and day out the TFA advises its members on their rights and responsibilities in respect of these tenancies and other agreements. A regular area of advice to TFA members relates to the implications for their security of tenure following applications made by their landlords either individually or with developers to seek change of use of the land that they farm.
- 1.3 Although there are legal safeguards that need to be considered as part of the planning process in respect of the impact of a development on an occupier of land who is not party to the application for change of use, the TFA believes that they are not universally understood. The TFA therefore believes that the National Planning Policy Framework (NPPF) should set out those legal safeguards in full to inform all parts of the planning system including local planning authorities, the Planning Inspectorate and Ministers in dealing with Nationally Significant Infrastructure Projects (NSIPS).
- 1.4 In responding to this consultation, the TFA will therefore focus on what it believes needs to be included within the NPPF to ensure that the needs of occupiers are properly considered at all levels of the planning process.

2. Notice to Occupiers

- 2.1 In the first place, it is important to highlight within the NPPF the importance of ensuring that occupiers of any land or property subject to an application for development are given due notice of the application. Too often the TFA finds that applicants fail in their duty to serve notice and there is an inconsistency in the way in which such failure is addressed by the planning system. This needs to be tightened with an absolute requirement for applicants and developers to ensure that due notice is served pursuant to Article 13 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 and that a failure to do so should render an application for planning as stalled until or unless such notice is served and adequate time is made available to the occupier to make any submission in respect of the application for change of use.
- 2.2 Although the formal notice is the legal minimum period within which an occupier is to be informed of a planning application, the NPPF should encourage landlords and developers to discuss their plans with occupiers early, well before they submit an

application to the local planning authority or to the Secretary of State depending on the size of the project. In this respect, the TFA would direct the Government to long-standing guidance on good practice that exists within the ambit of agricultural tenancies that seeks to encourage early consultation. That guidance is submitted alongside this response for consideration in drafting this section of the NPPF.

3. Public Policy in Respect of the Impact of Development on Occupiers

- 3.1 In terms of the public policy around the impact of development on occupiers, and specifically tenant farmers, the TFA would highlight the remarks of the Prime Minister when, as Leader of the Opposition, he addressed the conference of the National Farmers Union in February 2023:

“Tenant farmers need a fair deal. They need to know their futures are secure. I want to see more solar farms across the countryside. We’ve got high hopes for solar energy in our green prosperity plan. There’ll be opportunities for farmers, opportunities for rural growth, cheaper bills, and in the long-term, real energy independence. But we can’t do it by taking advantage of tenant farmers, farmers producing good British food on carefully maintained, fertile land. They can’t plan properly if the soil beneath their feet isn’t secure. It’s a huge barrier to planning sustainable food production, so we’ve got to give them a fair deal, and we’ve got to use our land well”.

- 3.2 Although these remarks refer specifically to the development of sites for solar energy, the TFA would argue that there is no reason why the principles highlighted should not be more widely applicable in respect of all development impacting land held by tenant farmers.

4. Case Law Relating to the Impact of Development on Occupiers

- 4.1 There are two principal pieces of case law that underline that consideration must be given to the potential impact of a development on an occupier of land or property where that occupier is not party to the application for development. These are as follows:

Great Portland Estates v the Mayor and City of Westminster, House of Lords, 1984

R (ex parte Adams) v Vale of Glamorgan District Council, High Court, 2000

- 4.2 In respect of the House of Lords case above, the words of Lord Scarman in giving judgement in that case bear repeating:

“Personal circumstances of an occupier, personal hardship, the difficulties of businesses which are of value to the character of a community are not to be ignored in the administration of planning control. It would be inhumane pedantry to exclude from the control of our environment the human factor. The human factor is always present, of course, indirectly as the background to the consideration of the character of land use. It can, however, and sometimes should, be given direct effect as an exceptional or special circumstance. But such circumstances, when they arise, fall to be considered not as a general rule but as exceptions to a general rule to be met in special cases. If a planning authority is to give effect to them, a specific case has to be made and the planning authority must give reasons for accepting it”.

- 4.3 Informed by that House of Lords case, the Hon Mr Justice Richards in giving judgement in the Vale of Glamorgan District Council case under which he quashed a planning consent for the change of use to agricultural buildings subject to an agricultural tenancy said:

“The members [of the planning committee] were advised that the position of the tenant, though a material consideration, was ‘not in the absence of any other objection, sufficient ground to sustain a refusal of the application’. The members were effectively being told that the tenant’s position and the loss of the buildings to agricultural use could not amount to a freestanding planning consideration capable of justifying the refusal of permission; that there had to be some additional ground of objection such as the highways objection that had been the basis of the original recommendation of refusal. In my judgement that was an erroneous approach. It adopted too narrow a view of the relevant policy framework”.

- 4.4 Again, the experience of the TFA is that there is a varying degree of understanding of this case law at all levels of the planning system. It would therefore be prudent and sensible to include within the NPPF guidance on the need to ensure that the impact of development on the personal circumstances of occupiers who are not party to applications for development are properly considered such that, where those impacts are significantly negative, they would be sufficient to deny consent for change of use. It would be for the occupier in making any objection to a planning application to present sufficient evidence to show a significant negative impact on their personal circumstances.

5. Compensation Payable to a Tenant in Receipt of a Notice to Quit Following the Granting of Planning Consent to their Landlord

- 5.1 An agricultural tenant renting a holding under an AHA tenancy is entitled to compensation for disturbance following the service by a landlord of a successful notice to quit under Case B of Schedule 3 of the AHA where the landlord requires the land for a use other than for agriculture and has obtained planning consent for that use. The provisions as to compensation are set out under Section 60 of the Act in terms that it is calculated as a multiplier of the rent passing for that bit of the holding given up so that typically a tenant may receive five or six times the annual rent in respect of what is removed from the tenancy. The TFA has been concerned for some time that this is an inadequate mechanism for setting levels of compensation and that landlords should be required to provide levels of compensation which properly reflect the tenant’s actual loss and where there is a failure to agree what that might be, arbitration could be used to resolve the dispute.
- 5.2 In the industry guidance previously referred to it was agreed that these statutory levels should be regarded as minimum levels of compensation and that particular consideration should be given to ensuring that agreed levels of compensation reflect the tenant’s actual loss. The TFA is pressing that these compensation provisions are

reviewed and updated to provide provisions which require compensation to match the actual loss of the tenant. However, in advance of those changes, the NPPF should make it clear that landlords must not rely upon the statutory minimum levels of compensation but look to ensure that tenants are adequately compensated for their true loss.

- 5.3 This has become even more important given the decision of the High Court to refuse an application for a Judicial Review made by tenant farmer Robert Sturdy from North Yorkshire in respect of the decision to grant consent for a solar energy scheme across nearly half of his tenanted farm [R (on the application of Robert Sturdy) v Secretary of State for Housing, Communities and Local Government (AC-2025-LDS-000074)]. The planning decision was made by an Inspector and was backed by the Planning Minister Matthew Pennycook MP following a decision to call in the application before the Inspector.
- 5.4 The Court's response to Ground 1 pleaded for that Judicial Review goes to the heart of this issue. The applicant pleaded that the Inspector had failed to properly calculate and take into consideration the actual loss he would suffer as a result of the Solar development. However, the decision of the Court relies heavily on the current statutory provision for compensation payments to tenant farmers facing dislocation through the service of a Case B notice to quit. In terms, the Court found that the Inspector was entitled to rely upon what Parliament has already determined as the correct level of compensation in these circumstances and was not obliged in any way to look at how the real loss of the tenant could or should be addressed. This highlights the urgent need for the Government and Parliament to readdress the statutory compensation provisions.
- 5.5 These issues were debated on the final day of the Report Stage in the House of Lords during the passage of the Planning and Infrastructure Act 2025 following amendments tabled by Baroness Kate Rock. Those amendments were withdrawn by Baroness Rock on the basis that the Planning Minister, Baroness Taylor of Stevenage, agreed to meet with her and representatives of the TFA to discuss what might be done in advance of any change in the law which might be proposed in response to the forthcoming Law Commission review. In the meeting which subsequently took place which also involved DEFRA Minister Baroness Sue Hayman, it was agreed that looking into the possibility of updating statutory planning guidance should be considered. Therefore, this consultation represents a good opportunity to ensure that these issues are addressed.

6. Conclusion

- 6.1 The total amount of land within the tenanted sector of agriculture covers about one third of the land used for farming purposes and approximately half that land confers security of tenure for at least the lifetime of the tenant farmers involved. However, that security of tenure can be undermined in the circumstances of landlords obtaining consent for change of use of that land to uses other than for agriculture. The planning system has legal safeguards for occupiers in those circumstances which are not well understood and which the NPPF needs to clarify and amplify as set out above.

Tenant Farmers Association
5 Brewery Court
Theale
Reading
RG7 5AJ
0118 930 6130
www.tfa.org.uk

20 February 2026
GWD/0808