# Ashfords Planning Conference 2026: Key takeaways

ashfords

# Introduction

Ashfords' planning and infrastructure consenting team hosted its inaugural annual conference, establishing it as a key event for the industry.

The conference was hosted by David Richardson, head of Ashfords' planning and infrastructure consenting team, who provided planning and development professionals with a valuable platform to discuss recent planning policy and legal developments.

Lord Banner KC of Keating Chambers joined as the keynote speaker. CarneySweeney was also represented, with director Simon Coles delivering a session focused on local plans. Additional presentations were given by Ashfords speakers Elisabeth Osborne, Thomas Ewings, Stephen Humphreys and Barney Elbourn, with the event concluding with a panel Q&A session.

# Important planning industry dates to note

David Richardson, Ashfords

David Richardson began the conference by outlining some key recent announcements in the planning and development sector, including:

- Planning and Infrastructure Act 2025 – the coming into force of important parts of the Act on 18 February, including Part 3 on Environmental Delivery Plans.
- The government's consultation on local government reform for Devon and Torbay, which closes on 26 March.
- Section 73B and the coming into force of that provision, which amends the Town and Country Planning Act 1990.
- Matthew Pennycook MP's letter to the Planning Inspectorate on modifying planning obligations on 18 December 2025, and the issuing of the policy statement: a roadmap for S106 delivery on 28 January 2026.
- Spatial Developments Strategies – the launch of a consultation on areas to be covered on 12 February.
- New appeal procedure guidance issued on 18 February 2026, looking to streamline appeal processes and direct more to the simplified written representations procedure.

ashfords

# The government's consultation on proposed National Planning Policy Framework (NPPF) revisions

Lord Charles Banner KC, Keating Chambers

- The consultation proposes a wholesale restructuring of the NPPF, splitting sections into plan-making and decision-making.
- There is a general presumption in favour of approval for development within settlements; but possibly a more restrictive approach to development (for housing at least) outside settlements than before, especially where the LPA can demonstrate a 5 year housing land supply and an above 75% Housing Delivery Test Score
- There is more positivity for commercial development proposals than the current NPPF, which is good news for commercial and logistics businesses.
- Natural environment – a change in definition of ancient or veteran tree could result in substantially more trees meeting the criteria.
- Non-designated heritage assets – there will be a lot of debate and argument about what constitutes a non-designated heritage asset given that a presumption against harm to NDHAs is introduced for the first time.

ashfords

# Update on local plans

Simon Coles, CarneySweeney

- Local plans remain central to the planning system, but they now sit within a faster, more centralised national policy framework shaped by the Levelling-up and Regeneration Act 2023, national development management policies (NDMPs), and ongoing National Planning Policy Framework (NPPF) reform.
- NDMPs and NPPF transitional arrangements make timing critical, with clear implications for how plans are examined and how decisions are made during periods of policy change.
- Plan-making is being significantly accelerated, with shorter statutory timetables, gateway checks and an increased risk of central intervention where progress stalls.
- Devon and the wider South West face particular complexity, with multiple local plans at different stages, substantial housing uplifts, and uncertainty linked to local government reorganisation and emerging spatial strategies.
- Early informed engagement has never been more important, as compressed timescales and overlapping reforms leave less room to influence outcomes later in the process.

ashfords

# Case law insights

Elisabeth Osborne and Thomas Ewings, Ashfords

- Gladman Developments Ltd v Secretary of State for Housing, Communities and Local Government and Lancaster City Council case: the absence of a sequential test is not a trump card leading to mandatory refusal if not complied with.
- Greenfields (IOW) Limited v Isle of White Council case: breach of article 40(3) DPMO (draft and final s106 agreement to be published by LPA prior to grant of planning permission) may result in a successful challenge.
- Morrish Homes Ltd, R (on the application of) v Secretary of State for Housing, Communities and Local Government case: a planning obligation may still serve a useful purpose even if the new result is administratively difficult.
- Save Bristol City Gardens Alliance Limited v Bristol City Council case: the same version of the statutory metric for measuring a contribution to biodiversity net gain can be used event if the metric is revised during the course of the project.

# Infrastructure and energy update

Stephen Humphreys and Barney Elbourn, Ashfords

- Generally positive support for new energy and infrastructure development in the consultation draft National Planning Policy Framework.
- The new suite of national policy statements now includes onshore wind.
- The government's ambition for clean energy will inevitably require significant port redevelopment.

ashfords

# Panel Q&A

We concluded the event with a panel Q&A, chaired by David Richardson, with key speakers Lord Charles Banner KC, Simon Coles, Elisabeth Osborne and Stephen Humphreys.

**Question:**
With many sites now unviable due to rising build, finance and planning costs, and values are flat or falling, do you think the government will step in on viability to prevent sites stalling, or will developers be relying on advisers for the foreseeable future?

**Response:**
- The government is aware of the issue, as many clients are now exploring alternatives to traditional housing.
- Addressing this is politically difficult; for example, London's mitigation proposals have been criticised for lacking a strong evidence base.
- Recent by-election results have increased pressure from multiple directions, making government action even more uncertain.
- There are concerns that any government response may not go far enough to resolve the issue.

**Follow up question:**
Is the draft National Planning Policy Framework (NPPF) getting the balance right on viability?

**Response:**
- The draft NPPF emphasises viability assessments during the local plan stage, limiting the scope for later challenges.
- Political and community opposition to viability arguments, especially concerning affordable housing, remains significant.
- The draft NPPF does not adequately address these ongoing concerns.
- Measures such as cascading affordable housing liabilities may offer some assistance, but do not resolve broader, large-scale viability issues.

ashfords

# Panel Q&A

**Question:**
Do you see community-led development playing a greater role as an exception within planning policy?

**Response:**
- Community-led approaches have delivered notable benefits in practice.
- Such initiatives must be supported by robust evidence.
- Careful framing is essential to ensure their effectiveness and legitimacy.

**Question:**
What's the panel's view on greater delegation to planning officers?

**Response:**
- In recent years, planning officers have shifted from decision-makers to intermediaries.
- The previous model featured more collaborative problem-solving, which fostered trust and aided project progress.
- Reintroducing collaboration is beneficial, but outcomes differ between local authorities.
- This development is a modest improvement, not a transformative change.

**Question:**
What is happening with moves to address the Hillside decision? Will Section 73B solve the problem?

**Response:**
- Section 73B is expected to resolve approximately a third of issues arising from the Hillside case.
- The main challenge will be determining what counts as a 'substantial' amendment, which is likely to prompt judicial reviews and further debate.
- Section 73B will offer partial relief but is not a comprehensive solution to all Hillside-related problems.
- The government has expressed an intention to fully resolve the Hillside matter, but this will require further legislative action.

ashfords

# Panel Q&A

**Question:**
Scotland and Wales have national development management policies on a statutory footing. Is it a missed opportunity not to do the same for England?

**Response:**
- Placing national development management policies on a statutory footing could restrict flexibility in policy changes.
- For instance, implementing the Grey Belt policy would have been more challenging under a statutory framework.
- Policies incorporated into the National Planning Policy Framework allow for greater adaptability, which may vary with future governments.
- The current system balances flexibility with direction, provided planning decisions apply the correct weight to policies.

**Question:**
Are cascading affordable housing provisions making a comeback?

**Response:**
- High land values and extensive housing waiting lists, especially in the South West, present significant challenges.
- Local authorities are often unwilling to accept commuted sums or diluted affordable housing products, as lost units are difficult to replace.
- Striking the right balance between affordable housing provision and practical constraints remains problematic.

ashfords

# Key contacts

ashfords

CARNEYSWEENEY

KEATING CHAMBERS



**David Richardson**
Partner

Head of Planning and Infrastructure Consenting

Ashfords

d.richardson@@ashfords.co.uk

+44 (0)1392 333745

learn more



**Lord Banner KC**
Barrister

Keating Chambers

clerks@keatingchambers.com

+44 (0)20 7544 2600

learn more



**Simon Coles**
Director

CarneySweeney

Simon.coles@carneysweeney.co.uk

+44 7821 679719

learn more

Our insights in this document are intended to be for general information purposes only, may not cover every aspect of the topic with which it deals, and should not be relied on as legal advice or as an alternative to taking legal advice. English law is subject to change and the insights shared may not reflect the latest legal developments. You should always seek appropriate legal advice before taking, or refraining from taking, any action based on the information contained in this document. Ashfords disclaims all liability for any loss, howsoever caused, arising directly or indirectly from reliance on the information contained within this document.

Ashfords LLP is a limited liability partnership, registered in England and Wales with number OC342432, and its registered office is at Ashford House, Grenadier Road, Exeter, EX1 3LH. The firm's VAT number is GB 844 5024 39. Ashfords LLP is authorised and regulated by the Solicitors Regulation Authority with number 508761. A list of members of Ashfords LLP, and their professional qualifications, is available at the registered office. The term partner is used to refer to a member of Ashfords LLP or an employee of equivalent standing.

A copy of the Solicitors Regulation Authority's Standards and Regulations 2019 can be found at www.sra.org.uk/solicitors/standards-regulations.

ashfords