

6. NATIONAL PLANNING POLICY FRAMEWORK: CONSULTATION DOCUMENT

REPORT OF: DIVISIONAL LEADER FOR PLANNING AND ECONOMY
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Wards Affected: All
Key Decision: Yes
Report to: Scrutiny Committee for Community, Housing and Planning
Date of meeting: 17 April 2018

Purpose of Report

1. The purpose of this report is to set out the key changes proposed by Government in the consultation draft of the National Planning Policy Framework (the NPPF) and associated documents (set out in Appendix 1) and the Council's proposed response for consideration and comment by the Committee.

Summary

2. This report:
 - a) Identifies the Government's proposed changes to planning policy set out in the draft NPPF and associated documents (set out in Appendix 1) which seek to address concerns regarding housing delivery and supply;
 - b) Outlines the implications of the key proposed policy changes for the District Council and the Council's proposed response to these; and
 - c) Recommends that authority be delegated to the Cabinet Member for Housing and Planning to agree the Council's formal response to the draft NPPF and associated documents for submission to the Ministry of Housing, Community and Local Government (MHCLG) by the 10 May 2018.

Recommendations

3. **That the Scrutiny Committee:**
 - (i) Considers and comments on the key proposed changes to planning policy set out in the draft NPPF and associated documents, the implications of these for the District Council and proposed responses; and**
 - (ii) Delegates authority to the Cabinet Member for Housing and Planning to agree the Council's formal response on the draft NPPF and associated documents for submission to the Government.**
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Background

4. The National Planning Policy Framework (the NPPF) was first introduced in 2012 and brought together and simplified previous planning policy and guidance. It established the 'presumption in favour of sustainable development' which is a material consideration in the determination of planning applications. In 2014 the Government also produced the online National Planning Practice Guidance (NPPG) which provides more detail on planning matters in order to help planning practitioners.

5. During 2017 the Government consulted on a range of proposals to reform housing and planning policy in order to address concerns regarding housing supply and the need to address the shortage of homes in the country. The initial proposals were set out in the Housing White Paper 'Fixing our broken housing market' (January 2017) and further detail on the reforms was set out in 'Planning for the right homes in the right places' (September 2017). The Council submitted responses to both of these documents which can be found on the Council's website.
6. The Council made clear in its responses to these earlier documents that it supports the Government's intention to ensure that local authorities plan for homes in the right places. The Council's intention to support and deliver this objective is demonstrated by its approach set out in the recently adopted District Plan and in the preparation of a Site Allocations DPD, which is underway.
7. In March 2018 MHCLG published a suite of documents, including the draft NPPF, for consultation (listed in Appendix 1) which together set out the Government's proposed revised policies. The draft NPPF also reflects the changes to planning policy which has been set out in various Written Ministerial Statements since its original publication in 2012 including:
 - Support for small scale developers, custom and self-builders (Nov 2014);
 - Starter homes (March 2015); and
 - Neighbourhood planning (December 2016).
8. This report identifies the key changes established in this suite of documents, the implications for the District Council and the Council's proposed response for consideration and comment by the Committee. This report also sets out a general assessment of whether the Council's previous comments on the White Paper have been addressed in the draft NPPF.
9. The Government's aim of 'fixing the broken housing market' is a clear thread running through the proposed revised policies and the most significant changes set out in the consultation documents relate to policies to secure the delivery of a 'sufficient supply of homes'. Whilst the three overarching objectives of sustainable development (economic, social and environmental) remain at the heart of the draft NPPF, the need to 'make effective use of land' is included within these objectives. In addition, a new chapter has been introduced in the draft NPPF setting out the Government's framework for how effective use of land can be achieved. The implications of the revised approach for the District Council are set below for detailed consideration.

Key Issues

Delivering Housing – standardised formula for establishing local housing need, meeting unmet needs of neighbouring authorities, and identifying land for homes

10. The draft NPPF introduces a standardised methodology for setting housing needs in strategic plans and states that this approach must be used unless there are exceptional circumstances which justify an alternative approach. The Council welcomes any approach which delivers greater certainty to the starting point for plan making and therefore supports the principle.
11. In its previous response to the 'Planning for the right homes' document, the Council set out a range of concerns with the proposed standardised methodology and these

concerns have not been addressed in the draft NPPF. Therefore, it is recommended that the Council make the following comments in its formal response:

- The guidance requires the use of the 'National Household Projections' for the area, specifically projections for household growth over the first 10 years and requires the use of the ratio between house prices and workplace-based earnings to make an adjustment to take account of market signals. It is considered that a true measure of affordability should be based on residence-based earnings as it is residents that pay local housing costs and this approach would also take account of commuter's incomes. In addition, a broader basket of affordability indicators would result in a better assessment of the balance between demand and supply of dwellings. Using the proposed standardised methodology would give Mid Sussex a housing need of 1,112 dwellings per annum (2016 -2026) whereas the figure set out in the table accompanying the 'Planning for the Right Homes' document (which is based on residence-based earnings) gave a standardised figure of 1,016 dwellings per annum. This demonstrates the implications of using different approaches which is of concern; and
 - Measuring affordability in a single year as proposed is not considered a sufficiently robust measure, given the scope for peaks and troughs within the cyclical property market. The use of 5 year rolling averages would be a more accurate reflection of affordability.
12. The draft NPPF makes clear that the standardised methodology for setting housing need figures must take account of any needs which cannot be met within neighbouring areas. The principle of seeking to meet unmet needs of other authorities within the same housing market area was established in the NPPF in 2012 and the adopted District Plan housing figure includes provision to help address Crawley's unmet need. The draft NPPF requires a more rigorous approach to demonstrate how authorities have addressed this issue and set out detailed guidance on the preparation of Statements of Common Ground. The Council's proposed response to the consultation should set out its support for these proposals.
13. Policies introduce a requirement for strategic plans to set out a housing requirement figure for designated neighbourhood areas in order that housing numbers will not need testing at Neighbourhood Plan examinations. The adopted District Plan sets out an indicative housing requirement for parishes so in principle this is supported. However, there is concern that the application of this policy may introduce undesirable inflexibility and our response should set these concerns out. The strategic plan adopted by a Local Planning Authority should set the spatial strategy and allocate strategic sites. The approach must be able to reflect any allocation of additional strategic sites in the plan period (in, for example, a Site Allocations DPD) in accordance with the spatial strategy and this may reduce the housing requirement in Neighbourhood areas. In addition, if parishes are given a fixed figure, they are likely to perceive this as the absolute number that needs to be delivered and will resist further allocations through the Local Plan process which might be necessary to meet the overall housing requirement for the district as a whole.
14. The draft NPPF recognises the value of small sites in ensuring housing delivery and sets out a requirement that at least 20% of allocated sites should be half a hectare or less. The Council's proposed response is that, whilst agreeing that small sites make an important contribution the requirement there needs to be more clarity over whether the 20% applies to the proportion of sites or as a proportion of the total housing to be provided.

15. It is proposed that the Council's formal response set out the concerns outlined above as well as the view that setting a specific percentage of small sites is too prescriptive particularly as whether this is achievable is still to be tested.

The Five-Year Housing Land Supply and the Housing Delivery Test

16. The proposed revised policies indicate that an authority's five-year housing land supply should be measured against the adopted plan number (where it is less than five years old) before reverting to the number given by the proposed standardised methodology. Given that the Council has only recently adopted the District plan there are no immediate implications for Mid Sussex for the housing figure against which the Housing Delivery Test is applied.
17. The five-year supply can be demonstrated either through the Local Plan process or by preparing an Annual Position Statement. An Annual Position Statement is a practical way of formalising the approach however the Council's response should set out our concern that the proposed guidance requires a sign off process which might be unduly burdensome. As currently set out the Annual Position Statement is to be prepared in consultation with the Secretary of State. Given the number of statements that will need to be considered, this could introduce delays in the publication timeframe.
18. The draft NPPF continues to set out policies regarding the percentage buffer to be applied to the supply of specific deliverable sites but introduces a new 10% buffer (in addition to the 5% and 20% buffers currently set out in the 2012 NPPF) and clarifies when these should be applied.
19. The draft NPPF, the draft NPPG and the Housing Delivery Test Draft Measurement Rule Book set out the policy requirement and guidance on the application of a Housing Delivery Test. The Housing Delivery Test measures the total net homes delivered over the past 3 years compared to the total requirement for the same period. If the housing delivery rate falls below the number of homes required then certain consequences apply:
- an action plan must be prepared if housing delivery falls below 95%;
 - a 20% buffer must be added to an authority's five-year land supply if delivery falls below 85%; and
 - the presumption in favour of sustainable development will apply if delivery falls below 75%.

The action plan will have to set out the challenges facing the authority; actions to address under-delivery; will need to be prepared in consultation with a range of stakeholders including developers, promoters and landowners; and will need to be published within 6 months of the publication of the Housing Delivery Test.

20. The proposed introduction of an Annual Position Statement and Housing Delivery Test, with a specific formula removes any uncertainty regarding which buffer to apply and will improve consistency of approach across authorities. It is also likely to reduce the amount of time spent at local plan examination/S78 appeals and is therefore supported. Therefore the Council's proposed response should set out its support for these policy revisions.

Effective Use of Land and Housing Density

21. In principle, making the most effective use of land should help to reduce the amount of

land, particularly greenfield sites, required to meet housing need and is therefore supported. Many of the proposals in the draft NPPF are already established as principles in the adopted District Plan (including substantial weight to the use of brownfield land and the promotion of development of under-utilised land and buildings) and should therefore be welcomed in the Council's proposed response.

22. The draft NPPF introduces a new requirement that planning policies and decisions should support opportunities to use the air space above existing residential and commercial premises for new homes. This should be cautiously supported given that the draft NPPF indicates that such 'upward extensions' should be consistent with prevailing height and form of neighbouring properties and the street scene and should not have an impact on existing or new residents' amenity.
23. The draft NPPF introduces a requirement for local planning authorities to support proposals for housing development on land which is currently developed but not allocated for a specific use in plans, including the use of retail and employment land for homes 'in areas of high housing demand'. Whilst the reuse of previously developed land for housing is supported in principle, there are concerns about the impact this approach might have on the Council's economic strategy. The proposed response by the Council should therefore require that policies of the draft NPPF should be strengthened to ensure that this policy does not undermine other Council strategies, have an impact on key economic sectors, or impact on the vitality and viability of town and village centres. In addition, the Council considers that rather than applying this approach 'in areas of high housing demand' this presumption should only be applied where an authority cannot meet its OAN and our formal response should make this clear.
24. The draft NPPF recognises that a key way of making effective use of land is avoid homes being built at low densities and that developments should make optimal use of the potential of sites. To achieve this, the draft NPPF indicates that plans should include the use of minimum density standards and applications should be refused where they fail to make efficient use of land. The Council supports this intention and our formal response should make this clear.

Affordable Housing and Housing Mix

25. Revised guidance is set out on the types of development which should provide affordable housing and the adopted District Plan approach set out in Policy DP31 complies with the new guidance.
26. The draft NPPF also sets out policies on types of development which should be exempt from the requirement to provide affordable housing including Build to Rent homes. Although such developments will meet a need for housing there is concern that Build for Rent Homes will be let at market rents and therefore could be out of reach for those who need affordable housing. It is considered that such developments should still be required to provide an affordable housing contribution and our response should seek appropriate amendments to these revised provisions.
27. In addition an exemption to affordable housing provision is also proposed for development which provides specialist accommodation for people with specific needs, such as purpose built accommodation for the elderly. Again, there is no justification for this exemption.
28. It is recommended that in the response to the consultation we should require amendments to the draft NPPF to amend this and clarify that if it is not practicable for such developments to make an on-site contribution, because of the provision of onsite

facilities and associated care/support charges, then an off-site commuted sum could be negotiated if appropriate.

Incentives to Encourage Developers to Build Out

29. The previous government consultation on 'Fixing the Broken Housing Market' recognised the need to ensure that developers did not 'land bank' planning permissions. The draft NPPF encourages local planning authorities to consider imposing planning conditions requiring development to begin within a timescale shorter than the relevant default period, where this would expedite the development without threatening deliverability or viability. In addition, Councils are advised to work with developers to encourage the sub-division of large sites where this could help to speed up the delivery of homes. Finally, as part of the Housing Delivery Test, where delivery has fallen below 95% of the LPA's housing requirement over the previous three years, the authority should prepare an action plan to identify causes of under-delivery and to identify actions to increase delivery in the future.
30. It is recommended that the Council's response should welcomed these measures but also set out the Council's concern that the draft NPPF does not set out further measures to require developers to deliver planning permissions and does not set out penalties for developers if this is not undertaken.

Plan Making – Strategic and local policies, maintaining effective co-operation, neighbourhood planning and 5-year reviews

31. There are significant changes proposed in the draft NPPF to plan-making. Whilst as a minimum, authorities will have to prepare a plan setting out a limited suite of strategic priorities (i.e. those which set out the pattern and scale of development, numbers of homes and amount of employment and town centre space needed, infrastructure requirements, and policies regarding conservation of natural and historic assets) there is no longer a requirement to set out local policies.
32. In addition, the draft NPPF indicates that local policies can be prepared either through Local Plans or Neighbourhood Plans. The adopted District Plan currently sets out both strategic and local policies and it is considered that this approach sets out a robust framework and guidance within which parishes can establish local policies in their neighbourhood plans. The Council considers that in some circumstances it will continue to be helpful for the local planning authority to set out a framework for 'local' issues against which Neighbourhood Plans can develop locationally specific detail and the Council's response to the draft NPPF should seek this clarification.
33. The draft NPPF includes policies on maintaining effective co-operation with other authorities and statutory bodies on strategic matters which cross administrative boundaries. The adopted District Plan already makes clear that the Council will continue to work constructively and on an ongoing basis with adjoining authorities and the wider sub region to address strategic matters. This proposal should therefore be supported in the Council's formal response.
34. The draft National Planning Practice Guidance (draft NPPG) sets out further detail on Neighbourhood Planning which includes the approach set out in the Written Ministerial Statement on when neighbourhood plans are protected from the presumption in favour of sustainable development which is helpful. The draft NPPG also sets out guidance for neighbourhood planning groups aiming to allocate sites for development on how to carry out an appraisal of options and an assessment of sites against clear criteria. The guidance on setting housing requirement figures for neighbourhood plans is dealt with above.

35. The draft NPPF indicates that policy reviews should be completed no later than five years from the adoption date of the Plan and that strategic policies will need updating at least once every five years if their applicable local housing figure has/or is expected to increase. The need to keep plans up-to-date to reflect changing housing need, economic cycles and latest planning policy and guidance is supported and the adopted District Plan includes the requirement to review the Plan in 5 years. However, there is concern that more frequent formal reviews of strategic policies may conflict with the strategic certainty being sought by the draft NPPF which considers that strategic policies should look ahead over a 15-year horizon and this point of concern should be raised in our consultation response. In addition, there are concerns about cost and resource implications for the Council although it is noted that the draft NPPF has introduced changes to ensure a proportionate approach to the evidence base in respect of both local and strategic policies to support a sound plan. The Council agrees with the need for a proportionate approach and this should be welcomed in any formal response.
36. The draft NPPF makes clear that requirement to review plans at least every 5 years does not apply to neighbourhood plans. This should be supported in the Council's response.

CIL, S106 and Pooling Restrictions

37. The reforms to developer contributions seek to reduce complexity, increase certainty and improve transparency in the S106 process. These aspirations are supported. In the longer term the Government has indicated its intention to consider a more fundamental review of the system including the possibility of setting a national level for developer contributions.
38. Current CIL Regulations prevent authorities from using more than five section 106 planning obligations to fund a single infrastructure project. The Regulation was established in order to incentivise local planning authorities to introduce CIL. However the Government's research identified that this approach was a key concern to both local authorities and developers as it made the process more difficult and causes problems for large or strategic sites. Therefore the draft NPPF and draft NPPG set out a more flexible approach to remove pooling restrictions where it would not be feasible for authorities to adopt CIL or where significant development is planned on several large strategic sites. The principle of this approach should be welcomed in our draft response given the allocation of strategic sites in the District Plan however there is concern about the definition of 'strategic'. Therefore whilst the Council should cautiously welcome the principles it should safeguard its final position until the draft Regulations, to support the changes, are published and reviewed.
39. There are no changes set out which would affect the current arrangements regarding distribution of a percentage of CIL to neighbourhood groups and this should be welcomed.

Viability

40. The Council's draft Development Viability SPD currently the subject of public consultation sets out the Council's requirements in terms of the submission of Viability Assessments, the information which should be included and guidance on future viability review mechanisms. The approach set out complies with the proposals on viability in the draft NPPF and would not therefore require a review of the draft SPD.

Design

41. The draft NPPF dilutes the emphasis on 'creating a high quality built environment' replacing this with 'fostering well-designed environments'. Given that the Council places great importance on design, as evidenced by having a Design Review Panel and running a Design Award, it is recommended that the Council's response should propose that the draft NPPF strengthens design considerations.

Decision Making

42. The draft NPPF encourages planning authorities to approach decision making in 'creative' and in a 'positive way' and there is increased emphasis on working proactively with applicants to find solutions. In addition, to help speed up decision making, the draft NPPF sets out a role for authorities to encourage applicants to engage with statutory and non-statutory consultees prior to submission of applications and seeks regular reviews of Local Lists of information requirements to be submitted with planning applications to ensure that authorities are not making onerous demands.
43. The Council is supportive of all these changes and has already implemented new initiatives to make decision making more efficient including the establishment of the Developers' Liaison Forum to discuss improvements to process. The Council already regularly reviews its Local List, the last review having been undertaken in June 2017. Any response should therefore set out the Council's support for these policies.

Implementation and Transitional Arrangements

44. The policies in the Framework will be a material consideration in the determination of planning applications on the date of publication.
45. The draft NPPF indicates plans will have to be reviewed to assess if revisions are required to reflect the Government's strategy. At this stage officers consider that it is unlikely that revisions will be required to the Plan however a comprehensive assessment will be undertaken once the final NPPF is published.
46. The provisions of the draft NPPF and associated documents will have implications for Council's preparation of the Site Allocations DPD. In particular, the proposals seek to focus viability assessments on plan making rather than decision taking in order to speed up the planning application process. In addition, the need to ensure effective use of land and the assessment of proportion of sites which are small will also have to be considered in the next steps of preparing the Sites DPD.

Next Steps

47. The deadline for responses to the consultation on the draft NPPF and associated documents is 10 May 2018. This report recommends that authority is delegated to the Cabinet Member for Housing and Planning to agree the formal response, taking into account comments made by Scrutiny Committee, for submission to MHCLG.

Financial Implications

48. There are no direct financial implications for the Council as a result of the draft NPPF. However, the emphasis in the proposed policies on ensuring developers consider infrastructure issues early in the development of their proposals and changes to CIL and S106 should have indirect financial benefits for the District.

Risk Management Implications

49. When the final NPPF and associated documents are published the Council will have to undertake a review of the District Plan to assess general conformity to determine if it would have to be subject of early revision. An initial assessment at this stage demonstrates that the District Plan is in conformity with the proposals in the draft NPPF.
50. The Council will carefully consider the implications of the draft NPPF on the preparation of the Site Allocations DPD (highlighted in Paragraphs 42 above) to ensure that the approach taken meets the future requirements.

Equality and Customer Service Implications

51. The draft NPPF sets out policies to ensure delivery of sustainable development which meets social objectives of meeting the needs of all. Key objectives are the provision of sufficient homes to ensure access to housing and the provision of infrastructure so that all members of society have access to homes and services.

Other Material Implications

52. There are no other material implications.

Background Papers

The Council's Response to:

- The Housing White Paper 'Fixing our broken housing market' (January 2017); and
- The Government's 'Planning for the right homes in the right places' (September 2017).

The Council submitted responses to both of these documents can be found on the Council's website.

APPENDIX 1 – LIST OF CONSULTATION DOCUMENTS

- The draft National Planning Policy Framework (draft NPPF);
- The draft methodology for calculating the Housing Delivery Test;
- Proposals for reforming developer contributions are set out in two documents ‘Supporting housing delivery through developer contributions’ and ‘Draft Planning practice guidance for viability’. It is anticipated that these proposals will be delivered through regulations;
- Draft updates to the National Planning Practice Guidance; and
- Associated papers, including the Governments response to the consultations on the previous consultation documents.