

# WIRRAL COUNCIL

PLANNING COMMITTEE - 20 SEPTEMBER 2011

CABINET - 22 SEPTEMBER 2011

<b>SUBJECT:</b>	<b>CONSULTATION ON DRAFT NATIONAL PLANNING POLICY FRAMEWORK AND LOCAL PLANNING REGULATIONS – PROPOSED RESPONSE</b>
<b>WARD/S AFFECTED:</b>	<b>ALL</b>
<b>REPORT OF:</b>	<b>KEVIN ADDERLEY, INTERIM DIRECTOR OF CORPORATE SERVICES</b>
<b>RESPONSIBLE PORTFOLIO HOLDER:</b>	<b>COUNCILLOR PHIL DAVIES</b>
<b>KEY DECISION?</b>	<b>NO</b>

## 1.0 EXECUTIVE SUMMARY

- 1.1 This report outlines the contents of a wide ranging national consultation by the Department for Communities and Local Government Department on a draft National Planning Policy Framework intended to replace the previous suite of existing national Planning Policy Statements, Planning Policy Guidance Notes and Minerals Planning Statements and revised national Regulations for Local Planning, which could have significant implications for the future shape of the land-use planning system in England. The report recommends that the comments set out in the Appendices to this report are submitted as the formal Council's response to the Department for Communities and Local Government Department.

## 2.0 RECOMMENDATION

- 2.1 **That the comments set out in Appendix 1 and Appendix 2 to this report form the basis of the Council's response to the Department for Communities and Local Government.**

## 3.0 REASON FOR RECOMMENDATION

- 3.1 To agree a Council response to consultation by the Department for Communities and Local Government on a draft National Planning Policy Framework and revised Local Planning Regulations.

## 4.0 BACKGROUND AND KEY ISSUES

- 4.1 The Coalition Government is consulting on a new draft National Planning Policy Framework (NPPF) which aims to shorten, simplify and re-focus all existing national planning policy advice, to lighten central prescription, avoid unnecessary duplication and elaboration and remove a drag on economic growth. When issued in final form, the NPPF will replace the current suite of Planning Policy Statements, Minerals Policy Statements, Planning Policy Guidance Notes as well as a number of other Circulars and "Letters to Chief Planning Officers".

- 4.2 As an illustration of the scale of change envisaged, the draft NPPF seeks to reduce more than 1,000 pages of previous policy and guidance down to 58 pages. More importantly, there is a far greater emphasis on the need to plan positively for new development, promote economic recovery, take more account of market signals and the viability of development and fully meet any assessed requirements, while providing for greater choice and competition.
- 4.3 The NPPF is accompanied by a 100-page Impact Assessment, which sets out a fuller explanation of the changes now being proposed, including the problems under consideration, the policy objectives behind the changes and the Government's assessment of their likely costs, benefits and risks. A separate, shorter, nine-page summary of the main policy changes, prepared by the Planning Inspectorate, can be viewed through the links at the end of this report.
- 4.4 The most significant changes include a "presumption in favour of sustainable development"; removing offices from the 'town centres first' approach; removing maximum parking standards; removing the national target for the re-use of brownfield land; requiring councils to identify an additional 20% of deliverable sites for housing; removing the minimum site threshold for requiring affordable housing; and changes to the type of development that can be allowed in the Green Belt. The majority of changes are seen as helping to promote greater local discretion.
- 4.5 The Government is seeking comments on the new NPPF and its accompanying Impact Assessment, through a series of consultation questions. The deadline for responses is 17 October 2011.
- 4.6 A parallel consultation on revisions to the Local Planning Regulations is also being undertaken, to consolidate previous changes into a single document and to reflect the further reforms set out in the Localism Bill, which is currently proceeding through Parliament. The deadline for responses on the draft Regulations is 7 October 2011.

## **5. CONSULTATION ON THE DRAFT NATIONAL PLANNING POLICY FRAMEWORK (NPPF)**

- 5.1 The following sections summarise the content of the draft NPPF and set out the main policy changes being proposed.
- 5.2 Although the NPPF is largely presented as a consolidation of existing advice, it should be noted that a number of changes to the planning system are also being brought forward through the Localism Bill. These changes are not being consulted on through the NPPF and are not presented by the Government in the Impact Assessment in same way as other substantive policy changes. There are also other aspects of policy, which in theory are not being altered through the NPPF, where changes and reductions in wording may nevertheless be capable of different interpretations than at present.

## **DELIVERING SUSTAINABLE DEVELOPMENT (paragraphs 9-19)**

- 5.3 Sustainable development is taken to include planning for prosperity (an economic role); planning for people (a social role); and planning for places (an environmental role), which should be pursued together by looking for solutions which deliver multiple goals (NPPF, page 3, paragraphs 10 and 11).

### **The Presumption in Favour of Sustainable Development (paragraphs 13-18)**

- 5.4 It is the basic assumption of the NPPF that development that is sustainable should go ahead without delay (Ministerial Foreword). The draft NPPF, therefore, sets out a “presumption in favour of sustainable development”, which broadly means development that supports economic growth and meets objectively assessed development needs, unless the adverse impacts would significantly and demonstrably outweigh the benefits when assessed against the NPPF as a whole (NPPF, page 4, paragraph 14 refers).
- 5.5 The “presumption in favour of sustainable development” is taken to be the default position for the planning system as a whole which means that councils should approve all individual proposals wherever possible; approve proposals that accord with statutory plans without delay; and grant permission where the plan is absent, silent, indeterminate or where relevant policies are out-of-date, unless this would compromise the key sustainable development principles set out within the NPPF. The presumption is explicitly intended to achieve enhanced levels of development (NPPF, page 15, paragraph 55). This could have major implications in Wirral, in the period until the Core Strategy can be formally adopted.
- 5.6 Local Plans (the new name for Local Development Frameworks) will be expected to set out how the presumption will be applied locally (NPPF, page 4, paragraphs 14 and 15 refer). The Council has already established a Sustainability Appraisal Framework to inform the preparation of the Core Strategy, which may need to be revised to respond to the final content of the NPPF.

## **PLAN-MAKING (paragraphs 20-52)**

- 5.7 The complex terminology and requirements associated with Local Development Frameworks is to be removed. The emphasis will now be on preparing a ‘Local Plan’ for the area, which can be reviewed in whole or in part to respond flexibly to changing circumstances, as the key to delivering development that reflects the vision and aspiration of local communities consistent with “the presumption in favour of sustainable development”.
- 5.8 The preference will be for a single document, with additional documents only used where clearly justified. Supplementary Planning Documents will only be necessary if sustainable development can be brought forward more quickly and must not add to the financial burden on development. There is no suggestion that local authorities should abandon work already underway on Core Strategies, although they too will need to be consistent with the final version of the NPPF. In Wirral, the Core Strategy would need to be “converted” to a single Local Plan by amendments and additions over time unless a decision was taken to prepare a full Local Plan

which would require extensive and costly re-consultation and a significant delay in establishing a relevant, up-to-date strategy for the Borough.

- 5.9 The focus in Local Plans should be on meeting objectively assessed development needs and on ensuring viability, in terms of providing acceptable returns to a willing land owner and willing developer to ensure delivery. This is now expressed in a proposed **additional test of soundness** – “positively prepared” (NPPF, page 13, paragraph 48). This additional test will also reflect the increased emphasis on the need for cross-boundary working on strategic priorities, to respond to the proposed abolition of regional strategies in the Localism Bill.

### **DEVELOPMENT MANAGEMENT (paragraphs 53-70)**

- 5.10 The planning system will still be plan-led but the primary objective of development management (previously known as development control) should be to foster the delivery of sustainable development, not to hinder or prevent development. Development should be approached positively and significant weight should be attached to the benefits of economic and housing growth, while influencing development proposals to achieve quality outcomes.
- 5.11 The main focus will be on efficiency and effectiveness. Strong encouragement is given to pre-application discussions, the use of planning performance agreements, Local Development Orders, Neighbourhood Development Orders and Community Right to Build Orders to relax planning controls and grant planning permission without the need for a traditional planning application. Councils should avoid unnecessary conditions or obligations which would undermine the viability of development.

### **PLANNING FOR PROSPERITY (paragraphs 71-106)**

- 5.12 This section includes policies for business and economic development, including retailing and town centres; transport; communications infrastructure; and minerals. The main objective under each heading is to facilitate economic growth.

#### **Business and Economic Development (paragraphs 71-81)**

- 5.13 Investment in business should not be over-burdened by the combined requirements of planning policy expectations. Instead, planning policies should seek to address potential barriers to investment and seek to find solutions to overcome any substantial planning objections. Planning policies should, however, avoid the long term protection of employment land or floorspace and treat applications for alternative uses on their merits having regard to market signals. Sustainable economic growth should also be supported in rural areas.
- 5.14 While town centres should be supported, it is important that retail and leisure needs are met in full and are not compromised by limited site availability. Policies should also be set for proposals which cannot be accommodated in or adjacent to town centres, subject to a sequential approach and **impact assessment** (NPPF, page 19, paragraph 76). The period for this assessment has, however, now been extended from 5 to 10 years, to allow better scope for the full impact of the development to be considered (PPPF, page 20, paragraph 80).

- 5.15 The accompanying Impact Assessment indicates that **offices** have now been removed from the “town centre first” approach, to allow offices to locate with respect to prevailing market conditions and reduce high rent costs. The objective of ensuring that development takes place in accessible locations will then be achieved through other policy mechanisms related to sustainable travel. In Wirral, offices have already been permitted in out-of-centre locations, for example at Wirral International Business Park, because of the lack of suitable, available sites in more central locations.

#### **Transport (paragraphs 82-94)**

- 5.16 Transport policies should facilitate development while contributing to wider sustainability and health. Encouragement should be given to solutions which support reductions in greenhouse gas emissions, reduce congestion and give people a real choice about how they travel but development should not be prevented or refused on transport grounds unless the residual impacts are “severe”. This appears to be a significant softening of the approach previously set out in PPG13 – Transport.
- 5.17 The accompanying Impact Assessment nevertheless indicates that the only significant policy change relates to the removal of national **standards for non-residential car parking**, to enable councils to set policies more appropriate to their local circumstances. Wirral adopted its own local standards for non-residential car parking, in the light of the former PPG13, in a Supplementary Planning Document in June 2007.

#### **Communications Infrastructure (paragraphs 95-99)**

- 5.18 There are no significant policy changes in relation to communications infrastructure. Local Plans are expected to support the expansion of the electronic communications networks, while keeping the numbers of masts and sites used to a minimum. Councils should not question whether the service to be provided is needed, to ensure people have a choice of providers and services and equitable access to the latest technology. Wirral adopted a Supplementary Planning Document for telecommunications apparatus in October 2006.

#### **Minerals (paragraphs 100-106)**

- 5.19 The NPPF seeks to secure an adequate and steady supply of indigenous minerals whilst encouraging the recycling of suitable materials to minimise the requirement for new primary extraction; and to facilitate the sustainable use of energy minerals.
- 5.20 The only main policy changes highlighted in the Impact Assessment seek to phase out **the use of peat** and amend the **length of landbanks** required for certain types of mineral. Wirral has not previously been affected by peat extraction or landbanks because of the lack of viable reserves.

## **PLANNING FOR PEOPLE (paragraphs 107-147)**

- 5.21 This section includes policies for housing; design; sustainable communities including community facilities, open space, sports and recreation; and the Green Belt.

### **Housing (paragraphs 107-113)**

- 5.22 The key objective is to increase significantly the delivery of new homes by meeting the full requirements for market and affordable housing and maintaining a rolling supply of specific deliverable sites. Applications for housing should be granted in accordance with the “presumption in favour of sustainable development”, where policies are out-of-date and/or a five-year supply of deliverable housing sites cannot be demonstrated. Four significant policy changes are, however, also proposed.
- 5.23 The NPPF proposes to remove the national target for the **re-use of brownfield land**, to allow local councils to determine the most suitable sites for housing, without being constrained by a national brownfield target, reflecting the fact that land supply constraints vary across local councils. The Council’s current Interim Planning Policy for New Housing Development (October 2005) is strongly based on the previous national concentration on the re-use of brownfield land. The accompanying Impact Assessment indicates that derelict urban sites, which could be left undeveloped in favour of greenfield land, could be used for alternative economic uses, such as industry, retail, leisure and community uses.
- 5.24 The NPPF will also require local councils to identify **an additional allowance of at least 20%** of deliverable sites, on top of their five-year housing supply requirement, to lower prices, ensure choice and competition in the land market and better facilitate the delivery of homes on the ground. To qualify as “deliverable” sites will need to be, at the point of adoption of the Local Plan, “available now, offer a suitable location for development now and be achievable with a realistic prospect that housing can be delivered on the site within five years and in particular that development of the site is viable i.e. that it would provide acceptable returns to a willing landowner and a willing developer based on current values and taking account of all likely infrastructure, standards and other costs” (NPPF, page 30, footnote 5). The “presumption in favour of development” would then be applied to the five-year supply plus the additional allowance.
- 5.25 Since the economic downturn, with its impact on development viability and the reduction in the number of planning applications being submitted and/or renewed, Wirral’s five-year land supply has come under increasing pressure.
- 5.26 The third key change would remove the national minimum 15-unit **threshold for requiring affordable housing** provision, to give local planning authorities greater flexibility to seek optimum solutions for their local areas. The Council has, however, already resolved to apply a lower threshold of 5 units to local requirements for affordable housing (Cabinet, 14 October 2010, Minute 171 refers).
- 5.27 The final major change would remove the policy allowing **rural exception sites** to permit affordable housing for local people in small rural communities, again, to give

councils greater flexibility to set out their own approach to delivering housing, including a more permissive approach to market housing. Wirral has not, however, previously operated a rural exception sites approach within its rural areas.

### **Design (paragraphs 114-123)**

- 5.28 The NPPF sees good design as indivisible from good planning and as a key element in achieving sustainable development and indicates that development of obviously poor design that fails to improve the quality of an area should be refused. There is a brief reference to outdoor advertisements, which should only be controlled in the interests of amenity and public safety (NPPF, page 34, paragraph 123).

### **Sustainable Communities (paragraphs 124-132)**

- 5.29 Planning should: create a built environment that facilitates social interaction and inclusive communities; deliver the right community facilities, schools and hospitals and services to meet local needs; and ensure access to open spaces and recreational facilities to promote the health and well-being of the community. The accompanying Impact Assessment identifies two main policy changes.
- 5.30 The NPPF asks local councils to include policies to safeguard against the unnecessary loss of valued **community facilities** and services to meet day-to-day needs. While unable to prevent unviable businesses closing, the Impact Assessment argues that this can send a strong signal of the importance the local community attach to the continuation of a community asset and encourage innovation and diversification to maintain viability.
- 5.31 The Draft NPPF also proposes a new designation of “**Local Green Space**”, to rule out development other than in very special circumstances. This designation will not be available within the Green Belt but would enable land particularly valued by communities to be identified for additional protection. Wirral identified a clear network of Urban Greenspace when the Unitary Development Plan was adopted in February 2000.
- 5.32 The NPPF also reflects the recent support for the delivery of state-funded schools, which was announced in August 2011.

### **Green Belt (paragraphs 133-147)**

- 5.33 The NPPF makes four detailed policy changes which would allow development on all **previously developed sites**, even if they have not been identified in the Local Plan; allow other forms of **local transport infrastructure**, in addition to park and ride; permit **Community Right to Build** schemes backed by the local community; and allow the alteration or replacement of all **existing buildings** rather than only dwellings. The need to preserve the openness of the Green Belt will, however, continue to be maintained.
- 5.34 With regard to the first category, only five previously developed sites are currently identified in the Unitary Development Plan for Wirral as “Major Development Sites in the Green Belt”, at the hospitals at Arrowe Park, Clatterbridge and Thingwall, at

Carlett Park and at the Pensby Schools. A decision to grant planning permission for housing at an additional derelict site at the former St Benedict's High School in Woodchurch was, however, taken by the Council in January 2009.

- 5.35 Once established, Green Belt boundaries should only be altered in exceptional circumstances and the appropriateness of existing Green Belt boundaries should only be considered when a Local Plan is being prepared or reviewed and should be capable of lasting beyond the plan period (NPPF, page 39, paragraph 138). As currently drafted, this wording would, however, appear to require the Council to re-open the Green Belt boundary to debate every time a new Local Plan was being considered.

### **PLANNING FOR PLACES (paragraphs 148-191)**

- 5.36 This final section sets out policies for climate change, flooding and coastal change, including the delivery of renewable and low carbon energy; and for the natural and historic environment.

#### **Climate change, flooding and coastal change (paragraphs 148-162)**

- 5.37 Planning should fully support the transition to a low carbon economy in a changing climate, taking full account of flood risk and coastal change. The planning system should aim to secure a radical reduction in greenhouse gas emissions through the location and layout of new development, minimise vulnerability and provide resilience to climate change, and avoid inappropriate development in flood risk areas and vulnerable coastal areas. The accompanying Impact Assessment identifies two main policy changes.
- 5.38 The NPPF proposes to remove the requirement to set **decentralised energy targets**, to give councils greater flexibility to plan in ways that best suit their area and to reflect the fiscal incentives and zero carbon initiative to be applied under other regulatory regimes such as the building regulations.
- 5.39 The NPPF also proposes to lend additional support to proposals for **renewable and low-carbon energy** outside opportunity areas identified in Local Plans, provided the location meets the criteria used in plan making, to ensure the planning system continues to contribute to the delivery of energy and climate change policy.

#### **Natural Environment (paragraphs 163-175)**

- 5.40 Objectives continue to include minimising the effects on the local and natural environment including protecting valued landscapes, minimising the impact on biodiversity and geodiversity and preventing unacceptable risks from pollution and land instability. Two main policy changes are, however, identified in the accompanying Impact Assessment.
- 5.41 The first is a new approach to **green infrastructure**, to encourage a more strategic approach to the provision of green spaces as part of a multifunctional network, in addition to the requirements of planning for open space, to address wider issues such as reducing the impacts of climate change. The Council has already made



provision for the preparation of a more specialist green infrastructure strategy (Cabinet 13 January 2011, Minute 283 refers).

- 5.42 The other change provides greater clarity on the type of **wildlife site** that should be given the same protection as European Sites, to comply with international obligations and reduce the risk that planning permissions will need to be reviewed once a new designation was confirmed. This now also includes sites identified or required as compensatory measures for adverse effects on European sites.

### **Historic environment (paragraphs 176-191)**

- 5.43 Other than its brevity, the only changes identified by the Government are the incorporation of previous policies for climate change, evidence base and Permitted Development and Article 4 Directions, in other sections of the NPPF.
- 5.44 The suggested response to the NPPF consultation questions is set out in Appendix 1 to this report.

## **6.0 CONSULTATION ON REVISED LOCAL PLANNING REGULATIONS**

- 6.1 The Government have also consulted on revised Local Planning Regulations to replace the existing 2004 Development Plan Regulations (as amended). The following paragraphs highlight the main changes that would arise:
- 6.2 The relaxation of what can and cannot be included within a Development Plan Document (DPD), under proposed Regulation 7, and the removal of the limitations and often confusing **terminology** related to different types of DPD, such as core strategies, area action plans and allocations documents, is welcomed. In future, all documents will simply be referred to as Local Plans, the scope and content of which can now be determined by each council, subject to compliance with national policy and the Local Planning Regulations.
- 6.3 The requirement to prepare and maintain a **Local Development Scheme** will remain but the need to seek the approval of the Secretary of State and some additional requirements of content are proposed to be removed. This would be a considerable simplification of a process that has in the past taken up to 30 weeks to complete in negotiation with the former Government Office North West.
- 6.4 The procedures proposed for the preparation of DPDs and Supplementary Planning Documents (SPDs) are essentially the same but under proposed Regulation 20 it will no longer be necessary to send full **copies of DPDs and supporting documents** to specific consultation bodies, which for the last stage of consultation on the Core Strategy had cost £2,500 plus £500 postage. Proposed Regulation 41 also provides for a **reasonable charge** to be made for a copy of any document that is requested in addition to copies provided for inspection at Council offices and on-line.
- 6.5 Under proposed Regulation 40 there will also no longer be a need to publish **adverts in the local press**. This has previously cost the Council up to £3,000 each time a document has been published for consultation and has appeared to be of limited practical value, given the sometimes irregular delivery of the free press and

the extensive level of personal notification that already takes place to comply with the Council's Statement of Community Involvement.

- 6.6 While the duty to prepare a **Statement of Community Involvement** will remain, the prescriptive requirements governing their preparation are now also proposed to be removed.
- 6.7 A duty to publish **monitoring information** will remain but an annual report will no longer need to be submitted to the Secretary of State. Under proposed Regulation 39, up-to-date information will now need to be made publicly available, as soon as it is available to the Council. The information required to be provided is also proposed to be extended to include net affordable dwellings; neighbourhood development orders; neighbourhood development plans; receipts and expenditure arising from the Community Infrastructure Levy; and action taken under the new Duty to Co-operate which is being included in the Localism Bill.
- 6.8 Proposed Regulation 6 now lists eleven public bodies (outside London) including the Environment Agency and Primary Care Trusts, that are proposed to be made subject to the **new duty to engage** constructively, actively and on an ongoing basis, in addition to neighbouring local authorities.
- 6.9 The Localism Bill also proposes to introduce other welcome flexibilities, including the ability to withdraw a DPD at any time before adoption rather than only with the permission of the Secretary of State or in response to an Inspectors recommendation. Inspectors will now also be able to recommend modifications to a DPD, which the Council will either accept or resubmit an amended plan to a further (although costly) public examination.
- 6.10 The suggested response to the consultation questions on the Local Planning Regulations is set out in Appendix 2 to this report.

## **7.0 RELEVANT RISKS**

- 7.1 The main risk in not responding to the draft National Planning Policy Framework consultation is that the final document is issued without the Council's views having been taken into account.

## **8.0 OTHER OPTIONS CONSIDERED**

- 8.1 The only other option is for the Council not to submit any views on the draft National Planning Policy Framework Consultation.

## **9.0 CONSULTATION**

- 9.1 The Department for Communities and Local Government are undertaking consultation on the draft National Planning Policy Framework until 17 October 2011.

## **10.0 IMPLICATIONS FOR VOLUNTARY, COMMUNITY AND FAITH GROUPS**

10.1 There are no implications arising directly out of this report, although the finalised National Planning Policy Framework may have implications for voluntary, community and faith groups which are looking to pursue development proposals.

## **11.0 RESOURCE IMPLICATIONS: FINANCIAL; IT; STAFFING; AND ASSETS**

11.1 There are no implications for the Council's finances, IT, staffing and assets arising directly out of this report. A number of possible savings arising from the proposed Local Planning Regulations are set out in section 6 of this report.

## **12.0 LEGAL IMPLICATIONS**

12.1 The final National Planning Policy Framework will have legal status as a formal statement of national planning policy, to which the Council must have regard when framing future planning policies and in taking decisions under the Town and Country Planning Acts. This will also apply to decisions taken by Planning Inspectors at appeal.

## **13.0 EQUALITIES IMPLICATIONS**

13.1 The draft National Planning Policy Framework has been subject to a national level Statutory Equality Duties Impact Test.

## **14.0 CARBON REDUCTION IMPLICATIONS**

14.1 The promotion of carbon reduction is one of the key themes in the draft National Planning Policy Framework under "Transport" (NPPF, page 21 and 22) and "Planning for Places" (NPPF, page 42 and 43).

## **15.0 PLANNING AND COMMUNITY SAFETY IMPLICATIONS**

15.1 When issued in final form, the National Planning Policy Framework will replace the current suite of Planning Policy Statements, Minerals Policy Statements, older Planning Policy Guidance Notes and a number of Circulars and "Letters to Chief Planning Officers". The main planning implications are set out throughout the main body of this report.

15.2 The National Planning Policy Framework refers to the need for crime prevention under the heading of "design" (NPPF, page 33, paragraph 116) and "sustainable communities" (NPPF, page 35, paragraph 125); and planning for public safety under "Planning for Places" (NPPF, pages 42 to 45 and on pages 48 and 49).

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## **APPENDICES**

Appendix 1 – Suggested Response to the draft National Planning Policy Framework  
Appendix 2 – Suggested Response to the draft Local Planning Regulations

## REFERENCE MATERIAL

The Draft National Planning Policy Framework can be viewed at <http://www.communities.gov.uk/documents/planningandbuilding/pdf/1951811.pdf>

The Draft National Planning Policy Framework Impact Assessment can be viewed at <http://www.communities.gov.uk/documents/planningandbuilding/pdf/1951736.pdf>

The associated background to consultation document can be viewed at <http://www.communities.gov.uk/documents/planningandbuilding/pdf/1951747.pdf>

The Draft Local Planning Regulations consultation can be viewed at: <http://www.communities.gov.uk/documents/planningandbuilding/pdf/localplansconsultation.pdf>

Advice Produced by the Planning Inspectorate can be viewed at [http://www.planningportal.gov.uk/uploads/pins/advice\\_for\\_inspectors/nppf\\_consult.pdf](http://www.planningportal.gov.uk/uploads/pins/advice_for_inspectors/nppf_consult.pdf)

## SUBJECT HISTORY (last 3 years)

Council Meeting	Date
None	

## **APPENDIX 1 – SUGGESTED RESPONSE TO THE DRAFT NATIONAL PLANNING POLICY FRAMEWORK**

**Consultation Question 1 - *The Framework has the right approach to establishing and defining the presumption in favour of sustainable development. Do you agree? Do you have comments?***

### *Strongly Disagree*

The presumption, as presented, is basically a presumption in favour of development that complies with national policy rather than delivery of sustainable development in its own right, which has far wider implications, as reflected in the need to prepare a separate locally based sustainability appraisal for Local Plan proposals.

The emphasis is currently heavily weighted towards only one of the multiple goals set out. The need to live within environmental limits, in line with the UK Sustainable Development Strategy, is not addressed and there is no reference to reducing or removing inequalities or the ongoing need for urban regeneration and market renewal.

In the absence of further definition, arguments about what constitutes local and/or national sustainability will dominate future decision making, throughout the planning process, if decisions are to turn on this strap-line alone.

It is not clear how the presumption, as currently set out, aligns with the localism agenda.

**Consultation Question 2a - Plan Making - *The Framework has clarified the tests of soundness, and introduces a useful additional test to ensure local plans are positively prepared to meet objectively assessed need and infrastructure requirements. Do you agree? Do you have comments?***

### *Strongly Disagree*

Concerns with regard to the requirement to demonstrate that co-operation has been secured are set out in the response to Question 2c below.

The new test does not refer to flexibility, which is directly related to the increased emphasis on securing viability, as what is viable today may not be tomorrow and vice versa, particularly over a 15 year plan period.

The requirement to consider viability across a wider range of policy areas to ensure acceptable returns to a willing landowner and developer will have significant resource implications. No methodology has been set for these assessments and an “acceptable return” has not been defined.

The simplification of the overly complex Local Development Framework process is welcome but the Local Plan process is still too cumbersome and the examination process in particular needs to be further streamlined, particularly given the weight of requirements now being placed on the process.

Greater freedom over the duration of plan periods is welcome, given the difficulties in planning over the medium and longer term, but a minimum acceptable time-period would be

helpful.

The relationship between the need and demand for housing needs to be resolved (in paragraph 28). The third bullet point should refer to the scale of the housing supply necessary to meet “need”.

The text on Supplementary Planning Documents (SPDs) is too restrictive. The Council has in the past successfully used this as a way of providing more detail on the implementation of planning policies in a timely and cost-effective way, to the benefit of both developers and the community. It is arguable whether this type of advice adds significantly to the financial burdens on development. The alternative of the lengthy procedures to amend or review the Local Plan and the level of detail that may be required, does not make this a practical approach.

It is not clear whether the option of seeking a certificate of conformity with the NPPF relates to existing statutory plans (such as the saved Wirral UDP) or only to Local Plans produced and adopted after the Framework has been issued in final form. The process for obtaining a certificate and the implications of not having a certificate or of having a certificate declined needs to be addressed.

**Consultation Question 2c - Joint Working - *The policies for planning strategically across local boundaries provide a clear framework and enough flexibility for councils and other bodies to work together effectively. Do you agree? Do you have comments?***

*Strongly Disagree*

While the imperative for and benefits of cross-boundary working are clearly articulated, it is not certain how it will operate in practice, if different areas are competing for investment and/or pursuing different local goals and priorities, for example, with regard to urban regeneration and growth. Previously cross-boundary planning issues were addressed through the Regional Spatial Strategy prepared by the North West Regional Assembly and before that by Strategic Guidance provided by the Secretary of State.

While the Localism Bill will introduce a formal “duty to co-operate”, this is not a 'duty to agree' and in the absence of any replacement decision making structure there will be concern about meeting the new test of soundness. Guidance is needed on how to proceed if agreement is unable to be secured with a neighbouring authority. Further information is also needed on the nature of the evidence that will be required to demonstrate successful co-operation at the examination.

As the duty to co-operate only applies to England, clarification is needed on the relationship with Wales, which may need to continue to rely on existing voluntary arrangements.

**Consultation Question 3 - Decision Taking - *In the policies on development management, the level of detail is appropriate. Do you agree? Do you have comments?***

*Strongly Disagree*

The brevity of the NPPF is likely to undermine its robustness for development management. The single guidance document approach in Wales, for example, is more comprehensive, providing an introduction to the planning system, an explanation of primary legislation and

background to each policy area.

The brevity of guidance within parts of the NPPF could result in poorer quality planning applications being submitted and offer only limited scope to secure amendments or the refusal of an otherwise unacceptable scheme, particularly where the Local Plan is out-of-date or fails to obtain a certificate of conformity.

There is no reference to the role of the Statement of Community Involvement.

Paragraph 70 of the draft NPPF appears to introduce a new test for deciding whether a planning condition or planning obligation can be imposed, on the basis of the impact on viability rather than on the basis of the acceptability of the proposals, which could provide developers with the scope to challenge proposed conditions or obligations. Challenging such an assertion will have cost implications and could delay decision-making.

The response to Question 4 below, with regard to the provision of additional guidance, is also directly relevant.

**Consultation Question 4 – Other Guidance - Any guidance needed to support the new Framework should be light-touch and could be provided by organisations outside Government. Do you agree? Do you have comments? What should any separate guidance cover and who is best placed to provide it?**

Strongly Disagree

As currently drafted, the NPPF cannot be read in isolation and requires the reader to have an understanding of primary legislation and the terminology and background included in the existing PPSs, which has not been carried over to the NPPF (the advice on flood risk is a good example). If adopted as drafted, the existing guidance to be cancelled will therefore probably need to be retained by practitioners to provide the necessary context and background.

The future of existing practice guidance documents, such as those produced for PPS4 and PPS25, is also unclear, which makes it difficult to comment on the sufficiency of the remaining content in the NPPF. The need for a “light touch” will depend on the importance and technical requirements of the subject matter being considered.

It is not clear whether “The Planning System: General Principles” (2005) which provides a number of key principles to guide decision-making is also to be cancelled but it is not clear that this document – if retained – would be consistent with the NPPF.

The suggestion of the external provision of guidance will raise new issues related to the relative authority and weight of any additional documents prepared by bodies outside Government and will require a process of official approval and dissemination to determine which document by which body applies to which part of the NPPF.

**Consultation Question 5a - The 'planning for business policies' will encourage economic activity and give business the certainty and confidence to invest. Do you agree? Do you have comments?**

Strongly Disagree

While the overall emphasis on promoting economic growth is welcome, preventing the long term protection of employment land or floorspace, where a need has been demonstrated, will cause uncertainty, undermine the delivery of the clear strategy, strategic sites, support for existing business sectors and positive planning for the location of new industry required under paragraph 73, and could make the most attractive key sites and floorspace vulnerable to short-sighted speculation for inappropriate uses or piecemeal development.

The removal of office development from the town centres first approach will provide greater flexibility but will remove the ability to ask developers to demonstrate that they have considered reasonable options for locating proposed office developments in more central locations, even if they are available, suitable, viable and more accessible.

***Consultation Question 5c - What market signals could be most useful in plan making and decisions, and how could such information be best used to inform decisions?***

The range of data sources and types used in retail and employment land assessments, such as population and expenditure growth forecasts, turnover of retail businesses and floorspace, can generally only be accessed by the planning consultants employed to produce them and who subscribe to various data providers who provide it for a fee. Local Planning Authorities do not generally have direct access to these data sources. There is a long standing need to ensure retail information and consistent national data on floorspace is made available to local authorities.

***Consultation Question 6a - The town centre policies will enable communities to encourage retail, business and leisure development in the right locations and protect the vitality and viability of town centres. Do you agree? Do you have comments?***

***Strongly Disagree***

While “town centres first” has been retained for retail and leisure developments, the overall approach appears to have been diluted. For example, paragraph 78 now only requires authorities to “prefer” applications for retail and leisure uses to be located in town centres “where practical”.

Clarification is needed as to whether these policies also apply to lower order, district and local centres.

There is no reference to the circumstances in which it would be appropriate to refuse applications or provision for the balancing of other considerations such as regeneration/employment impacts (for example like Policy EC17 of PPS4).

Other ambiguities resulting from the over-simplification of the existing guidance also need to be clarified, such as whether the requirements for retail assessments apply to extensions to existing development (as they do in the existing PPS4 above a certain threshold).

Based on the implications of the exclusion of offices, the position with regard to other previously listed “town centre uses” also needs to be clarified and whether warehouse clubs and factory outlets are included in the definition of retailing. A list of town centre uses could be included in the glossary.



The proposed increase in the timescale for impact assessments to 10 years is welcome.

The relationship with paragraph 126, which provides for the safeguarding of facilities and services to meet day to day needs should be clarified. The need to provide evidence on the availability and viability of community facilities in a diverse and densely developed metropolitan area could, however, lead to significant additional costs

**Consultation Question 7 - Transport - *The policy on planning for transport takes the right approach. Do you agree? Do you have comments?***

*Strongly Disagree*

The choice of wording appears to water down aspirations to promote sustainable transport.

The reference to viability in paragraph 85 appears out of place.

There is no reference to the role of Local Transport Plans in providing strategic direction and guiding the provision of transport infrastructure.

The burden of proof - “robust evidence” and “critical” - required in paragraph 94, seems excessive given the timescales needed to deliver transport schemes and the purpose of safeguarding, to allow the case for reopening to be made at some time in the future rather than the present.

It is not clear whether the scope to require transport assessments or travel plans (in paragraphs 86 and 90) can be imposed before local criteria have been included in a Local Plan.

The removal of national maximum parking standards for non-residential development will make it easier for promoters of large out-of-centre developments to include large areas of car parking, which could undermine both the ‘town centres first’ approach and the promotion of alternative modes of transport to the private car.

**Consultation Question 8 – Communications Infrastructure - *Policy on communications infrastructure is adequate to allow effective communications development and technological advances. Do you agree? Do you have comments?***

*Strongly Disagree*

The guidance is too brief and gives local planning authorities inadequate scope to require operators to provide justification for a proposal. Omissions include a requirement for operators to continue pre-rollout plan and pre-application discussions to support the aim of keeping the number of masts and sites to a minimum. The policy also needs to set out how health and public concern is to be taken into account through the planning system.

The wording appears to expect local planning authorities to ensure that communications infrastructure will not cause interference from telecommunications equipment on air traffic and other broadcasting services (paragraph 97, bullets one and two). As many local planning authorities will not have the expertise or resources to monitor and to enforce these requirements, the onus should be on applicants to provide evidence to certify and demonstrate that new structures will be interference free with evidence following consultation

with the relevant broadcasting authorities. The role of Ofcom and the terms on which licences are granted also needs to be considered.

There should be clearer statements on the need for planning applications to be supported by the necessary evidence to justify proposed development in line with the Code of Best Practice produced with the Mobile Phone Industry and requiring applicants to certify that mobile phone equipment will meet International Commission on Non-Ionising Radiation Guidelines. To further support the aim of keeping the number of sites and equipment to a minimum, operators should also be expected to demonstrate how proposed development is needed to fulfil the requirements of their licence.

**Consultation Question 9 – Minerals - *The policies on minerals planning adopt the right approach. Do you agree? Do you have comments?***

Disagree

The requirement to allocate land for landbanks should only be 'where appropriate'.

The roles of different bodies in dealing with environmental impact and health and safety with regard to energy minerals should be set out, to take account of the Government's powers under the terms of Licences granted through the Department of Energy and Climate Change and pending research following seismic events and the suspension of hydraulic fracturing operations in Lancashire earlier this year (House of Commons, Energy and Climate Change Committee, Shale Gas: Government Response to the Committees 5<sup>th</sup> Report of Session 2010–12, 26 July 2011 refers).

The onus should be on industry to demonstrate that their proposals are safe and to provide sound evidence for addressing any constraints relating to the production and processing of on-shore gas and oil rather than requiring this of local planning authorities (paragraph 104, bullet three).

**Consultation Question 10 – Housing - *The policies on housing will enable communities to deliver a wide choice of high quality homes, in the right location, to meet local demand. Do you agree? Do you have comments?***

Strongly Disagree

It is not clear whether existing published guidance on strategic housing land availability and market assessments will remain in force. Further clarification is needed on how to monitor and manage the housing land supply, housing trajectories and the content of a housing implementation strategy. There is no advice on how to soundly assess an appropriate level of housing, on identifying suitable locations for housing or on achieving high quality housing.

The focus on reusing empty housing and buildings is welcome but calculating their contribution to the supply has not been addressed.

Removing the brownfield target as well as the associated emphasis on the reuse of previously developed land, could result in the loss of greenfield land and could deter builders from developing on viable previously developed sites in favour of more viable and less sustainable greenfield sites and undermine the regeneration of vacant and underused brownfield land in urban areas.

The Council's long term spatial strategy has been based on maximising the re-use of previously developed land as part of a successful strategy for urban regeneration and housing market renewal, which has been supported by the national position on brownfield land. Restraint on greenfield sites and national policy support has led to urban brownfield sites being developed at a far higher rate. Brownfield sites are less likely to come forward for development if greenfield sites are made available, particularly while the market is struggling.

The current commitment to prioritising previously developed land should be re-instated. An additional bullet could be added at the end of paragraph 109, to maintain a priority for the reuse of viable brownfield sites before greenfield sites are considered for development, to support urban regeneration and sustainable development.

The requirement for a 20% uplift on the five year housing supply will prematurely increase the pressure on greenfield sites and on land allocated for other uses such as employment and result in the over-allocation of land for housing. Coupled with the removal of the national target for the re-use of brownfield, this requirement could have serious implications for the Council's long term settlement strategy for urban regeneration and housing market renewal.

The removal of the national minimum target for affordable housing is supported, to enable additional affordable housing to be provided.

The removal of the rural exception policy could give the impression that it is no longer considered to be an exception to allow housing development in rural areas. Without further explanation, the requirement to consider allowing some market housing to facilitate additional affordable housing could place unnecessary pressure on Green Belt and/or greenfield sites on the fringe of villages to be released for larger schemes to provide a small amount of affordable housing.

**Consultation Question 11 – Planning for Schools -*The policy on planning for schools takes the right approach. Do you agree? Do you have comments?***

Strongly Disagree

It is not clear how advice in the draft NPPF relates to the recently issued ministerial statement "planning for schools development", which goes further than the NPPF. There is no reference to objectively assessing the need for school provision.

**Consultation Question 12 – Design - *The policy on planning and design is appropriate and useful. Do you agree? Do you have comments?***

Disagree

The tone of the remainder of the NPPF could be seen as weighing against securing the detailed objectives for design in paragraph 116, as developers could use other parts of the NPPF to argue that achieving these objectives will place a burden on development.

The final NPPF should make it more clear that development which fails to improve the quality and character of an area will also be refused.

The second bullet point in paragraph 116 should refer to the wider concept of green infrastructure to support statements elsewhere in the NPPF, not just as an opportunity to fulfil

recreational needs.

**Consultation Question 13 - Green Belt - *The policy on planning and the Green Belt gives a strong clear message on Green Belt protection. Do you agree? Do you have comments?***

Disagree

The scope is too loosely defined in relation to transport infrastructure.

As currently drafted, the wording of paragraph 138 would appear to require the Council to re-open the Green Belt boundary to debate every time a new Local Plan was being considered, even if the plan or review had no direct Green Belt implications, contrary to the certainty and permanence intended.

No provision or safeguards are included for joint working, reviews or capacity studies to reflect the wider strategic importance of Green Belt boundaries beyond individual local authority areas, in line with their purpose in assisting urban regeneration and the recycling of derelict and other urban land.

**Consultation Question 14 – Climate Change, Flooding and Coastal Change - *The policy relating to climate change takes the right approach. Do you agree? Do you have comments?***

Agree

But the expectation of “radical reductions” in greenhouse gas emissions appears to contradict the emphasis of the remainder of the guidance, which is aimed at minimising burdens on development and not rendering proposals unviable.

**Consultation Question 14c – *The policy on renewable energy will support the delivery of renewable and low carbon energy. Do you agree? Do you have comments?***

Agree

But deep geothermal energy should only be promoted “where appropriate”.

The visual impact of proposals and the impact on the character of a local area should still be relevant material considerations.

The policy should make a clearer statement that additional targets will not be required at project level to reflect changes in the building regulations, as set out within the accompanying Impact Statement.

**Consultation Question 14e - *The draft Framework sets out clear and workable proposals for plan-making and development management for renewable and low carbon energy, including the test for developments proposed outside of opportunity areas identified by local authorities. Do you agree? Do you have comments?***

Disagree

The requirement to apply the same criteria outside identified opportunity areas makes the identification of mapped areas largely meaningless.

The draft NPPF directs planning authorities to follow the approach in the National Policy Statements but it would be preferable for specific guidance to be included within the NPPF, especially as the National Policy Statements have been issued to consider nationally significant development rather than smaller locally significant proposals.

**Consultation Question 14g - *The policy on flooding and coastal change provides the right level of protection. Do you agree? Do you have comments?***

*Strongly Disagree*

The advice in paragraphs 156 and 157 is overly simplified from PPS25. The lack of a definition of “vulnerable development” (currently set out in tables D1-D3 of PPS25) could lead to inconsistent decision-making. Text which should be included as policy has been relegated to footnotes in a contrived way to keep the policy advice inadequately short.

It is unnecessary to have an excessively rigid application of the sequential test to all forms of development, including those which are “water compatible” or “less vulnerable” which can be located in flood risk areas, where appropriate measures are included to safeguard against flood risk to the development and to other uses.

The fifth bullet point of paragraph 156 which raises the possibility of seeking opportunities to facilitate the relocation of development, including housing, to more sustainable locations has potentially significant implications in terms of cost and possible blighting effects.

**Consultation Question 15 - Natural and Local Environment - *Policy relating to the natural and local environment provides the appropriate framework to protect and enhance the environment. Do you agree? Do you have comments?***

*Disagree*

The clarification on the approach to the protection of European sites is welcome. The encouragement to use the planning system to protect and enhance the natural environment is not, however, properly reflected throughout the rest of the draft NPPF.

The definition of green infrastructure needs to be clarified. There is an over-emphasis on designated sites and no recognition that countryside that does not have a national designation may be locally valuable. Given the emphasis on designated sites, it is not clear what level of protection could be given to un-designated networks of biodiversity.

References to marine plans and integrated coastal zone management are welcome but only a small section of the current advice in PPG20 has been reflected. While the reference to maintaining the character of the undeveloped coast is also welcome, this needs to be complemented by a preference for development which requires a coastal location and advice on defining a coastal zone.

**Consultation Question 16 - Historic Environment - *This policy provides the right level of protection for heritage assets. Do you agree? Do you have comments?***

## Disagree

While the broad scope of PPS5 is reflected in the draft NPPF, paragraphs 183 and 184 do not address the consideration of proposals which may cause moderate or minor harm to heritage assets which could cumulatively have a substantial impact (in line with paragraph HE9.4 of the existing PPS5).

Paragraph 113 could be amended to clarify that change of use of non-domestic listed buildings in rural areas to residential use would normally only be appropriate where the listed building is regarded as being at risk.

### **Consultation Question 17 – Impact Assessment - *Is the impact assessment a fair and reasonable representation of the costs, benefits and impacts of introducing the Framework?***

The Impact Statement is a welcome and useful additional explanation of the thinking behind each of the policy changes proposed. In some cases this explanation is more helpful than the overly brief text of the NPPF itself, in terms of interpreting the intention of the policy statements. The approach to green infrastructure, for example, is not fully mirrored in the text of the NPPF itself.

There appears to be a repeated assumption that the delivery of development and the number of planning applications submitted has in some way been hindered by the planning system, when the proportion of approvals has remained consistently high and it is the current weakness of the financial markets that has had by far the greater impact.

### **Consultation Question 18 – Planning for Travellers – *Do you have views on the consistency of the draft Framework with the draft planning policy for traveller sites or any other comments about the Government's plans to incorporate planning policy on traveller sites into the final National Planning Policy Framework?***

The NPPF does not say anything about planning for travellers. It is difficult to comment without seeing the text being proposed for inclusion.

### **Additional Comment – Open Space, Sports and Recreational Facilities**

Paragraphs 128 and 129 (which is not offered the opportunity of a separate Consultation Question) drastically reduce the previous provisions of PPG17, which will have important implications for the protection of these facilities.

The removal of the typologies and functions defined in PPG17 could lead to open space being viewed generically rather than being set to meet a range of differing needs. Mechanisms for the refusal of inappropriate development and requiring and securing replacement provision have also been omitted.

The relevance and intended scope of Local Green Space designations is unclear, if, as stated, they will not be appropriate for most green areas or open space and will not apply within the Green Belt.

## **APPENDIX 2 – SUGGESTED RESPONSE TO THE DRAFT LOCAL PLANNING REGULATIONS**

**Consultation Question 1 – *Do you agree that the revised regulations effectively reflect the changes proposed in the Localism Bill?***

Yes

**Consultation Question 2 – *Do you agree with the list of bodies included in the duty to co-operate?***

Yes

**Consultation Question 3 – *Do you agree the revised regulations effectively consolidate the 2004 regulations with the revisions in 2008 and 2009?***

Yes, subject to the comments under Q4.

**Consultation Question 4 - *Are there any ways in which the regulations should be changed in order to improve the process of preparing local plans, within the powers sets out in the Planning and Compulsory Purchase Act 2004 and the Localism Bill?***

The term “adopted development plan”, used in proposed Regulation 9, needs to be defined.

The introduction of “and” at the end of proposed Regulation 7(d) appears to indicate that all these items must be included in a DPD, when the wider intention seems to be that any, some or all of the items listed under (a) to (e) could be included.

The reference to “the consultation” in proposed Regulation 13(1)(b)(i) requires clarification. For example, does this mean a consultation in addition to that envisaged under proposed Regulation 13(1)(a), as under proposed Regulation 13(2)(a) the consultation statement referred to must be sent to the bodies specified under proposed Regulation 13(3).

Is it necessary to require a copy of the SPD and any supporting documents to be sent under proposed Regulation 13(2)(a), when just a notification that the document is available for consultation would be more consistent with the approach under proposed Regulation 20(b) (which is welcomed)?

Should the reference to Regulation 13(2) in proposed Regulation 14(2)(b) be to Regulation 13(1)(a)?

The limiting reference to “a period not less than 4 weeks or more than 6 weeks” in proposed Regulation 14(3) seems over-prescriptive given the tenor of the other simplifications and relaxations being proposed.

There does not appear to be any requirement to take the representations received under Regulation 14 into account.

The term “old policy”, used in Regulation 39, needs to be defined.