

Local Development Framework Sub-Committee
23rd May 2012



Report on the publication of the National Planning Policy Framework (NPPF)	Agenda No: 6
<p>Corporate Priority: Environment is clean and green, business is encouraged and local economy prospers, housing and transport meet local needs</p> <p>Report presented by: Kathryn Carpenter</p> <p>Report prepared by: Kathryn Carpenter</p>	
<p>Background Papers: National Planning Policy Framework (NPPF); Technical Guidance to the NPPF; and covering letter to Chief Planning Officers; Department for Communities and Local Government (CLG), March 2012 BDC Report to LDF Panel 8th September 2011. Draft NPPF, CLG, July 2011</p>	<p>Public Report Yes</p>
<p>Options:</p> <ul style="list-style-type: none"> a) Do nothing – retain existing LDF Core Strategy as it is. b) Carry out an assessment of the LDF Core Strategy within the transitional period, to establish i) if there are policies in the Core Strategy where there is a substantial conflict with the NPPF, and ii) if there are policies in the Core Strategy where there is a more limited conflict with the NPPF. c) Decide whether to review any policies and in what timescale. 	<p>Key Decision: No</p>
<p>Executive Summary: This report considers the main points of the new National Planning Policy Framework and the key implications for planning in Braintree District. The NPPF replaces previous government planning policy guidance with a much smaller document. It contains some new guidance including a presumption in favour of sustainable development and a requirement to grant permission where a plan is absent, silent or where relevant policies are out of date.</p>	
<p>Decision: That it be recommended that Council</p> <ul style="list-style-type: none"> - note the publication of the National Planning Policy Framework, - carry out an assessment of the Local Development Framework Core Strategy and the Local Plan Review to establish which policies, if any, are in conflict with the NPPF and consider proposals for amendment of such policies as appropriate within the transitional period. - take the provisions of the NPPF into account in future work, including in development management and in drawing up development management policies for the LDF. 	
<p>Purpose of Decision: To agree action to be taken to ensure that the LDF is consistent with the National Planning Policy Framework.</p>	

Corporate implications [should be explained in detail]	
Financial:	Costs of LDF preparation, including Evidence; Site Allocations, and Development Management Policies Plan Preparation and Examination. Potential costs of updating the adopted Core Strategy. Potential costs of clarification of policy via appeal.
Legal:	Planning guidance will be used as the basis for plan preparation and development management decisions
Equalities/Diversity	As set out in the guidance. Development and protection of the environment have an impact upon equality/diversity
Customer Impact:	As set out in the guidance. Impact of planning proposals and future planning decisions
Environment and Climate Change:	The NPPF provides the policy context for planning in the District, for the development and use of land and protection of land for open space and other uses; these will have effects upon the environment and climate change.
Consultation/Community Engagement:	There was public consultation by Government on the draft version of the NPPF.
Risks:	Risk of adopted Core Strategy not being found to be entirely consistent with the NPPF.
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1. Introduction

- 1.1. The Government published the final version of the National Planning Policy Framework (the NPPF) on March 27 2012. This replaced with immediate effect the various Government Planning Policy Guidance Notes and Planning Policy Statements on specific subjects, with the overriding aim of streamlining guidance and encouraging growth. Overall, the final version of the NPPF is a significant improvement on the draft version.
- 1.2. The Government has published additional guidance on Traveller sites to be read in conjunction with the NPPF; and also supplementary technical guidance on Flood Risk and Minerals Policy (this retains key elements of PPS 25 and of the existing minerals policy statement), as an interim measure pending a wider review of guidance to support planning policy.

2. Background

- 2.1. The NPPF is intended to make planning less complex and more accessible; and to promote sustainable growth. The NPPF policies are a material consideration for development management and the preparation of plans, with immediate effect.
- 2.2. Councils have one year to bring local plans into full alignment with the NPPF. In the 12-month transitional period, full weight may be given to policies in the adopted plans (the Core Strategy and the Review Local Plan) even if there is a limited degree of conflict with the NPPF. After the transitional period; and where there is greater variance from the NPPF, and where there are emerging plans; the degree of weight to be given to policies will depend on the stage reached in plan preparation (with emerging plans), and the degree of variance (with adopted

plans). The Council will need to consider which, if any, parts of the Core Strategy will need updating to reflect the guidance in the NPPF, and will need to take the new guidance into account in the preparation of the Site Allocation and Development Management Plan.

2.3. The Council is in a strong position currently, with a recently adopted Core Strategy and a good record of meeting its housing land supply target. In terms of the options open to the Council regarding plan preparation:

- To start work on a new Core Strategy, as an immediate full review, would not be necessary, as the Council has an up to date Core Strategy. The Council would instead need to assess the policies in the Core Strategy against the guidance in the NPPF to see whether any policies were in conflict with the NPPF.
- The Council will need to press ahead with the preparation of the Site Allocations and Development Management Plan to ensure that the draft plan has been prepared and amended following public consultation and approved by the Council, during the 12 month transition period. This will enable this to be given weight when determining planning applications as an emerging plan.
- The Council can then commence a Review of the Core Strategy based upon this District's housing and employment needs (rather than the Regional Strategy requirements) when the Site Allocations and Development Management Plan has been adopted.

2.4 Under the previous system, by which Core Strategy and the Review Local Plan were prepared, Councils were not allowed to repeat guidance from the regional plan or from national planning policy guidance in local plans; it was taken as read that this would apply. Under the new system, the Council will need to consider whether there is valuable guidance that used to be in the regional or national guidance, but will be missing following the revocation of the East of England Plan and/or the publication of the NPPF, and which the Council wishes to retain by incorporating similar guidance in the Site Allocations and Development Management Plan.

3. Contents of the National Planning Policy Framework

3.1. The overall focus on economic growth remains in the final version of the guidance, although the emphasis has been moderated.

3.2. In the absence of regional plans, the evidence base for local plans (either individually or in partnership with neighbouring authorities) will need to directly address in greater depth than before local evidence on issues such as housing, demography, employment and the economy. The need for SHMAAs (Strategic Housing Market Assessments) and SHLAAs (Strategic Housing Land Availability Assessments) is retained.

3.3. The NPPF introduces a presumption in favour of sustainable development for local plans and development management and has three core strategies: economic; environmental and social.

3.4. The NPPF requires that local planning authorities (LPAs) should meet objectively assessed needs with sufficient flexibility to adapt to rapid change, unless specific policies in the NPPF indicate development should be restricted; or the adverse impacts of this development would significantly and demonstrably outweigh the benefits when judged against the advice in the NPPF. When considering planning applications, where the development plan is absent, silent, or relevant

policies are out of date, permission should be granted unless one of these two caveats applies.

3.5. The Government has published, via the Planning Inspectorate, a model policy on the presumption in favour of sustainable development which must be included in all local plans in order for them to be found sound. This model policy is set out below and can be included in the policies set out in the Site Allocations and Development Management Plan:

Model Policy - Presumption in favour of sustainable development

“When considering development proposals the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework. It will always work proactively with applicants jointly to find solutions which mean that proposals can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area. Planning applications that accord with the policies in this Local Plan (and, where relevant, with policies in neighbourhood plans) will be approved without delay, unless material considerations indicate otherwise. Where there are no policies relevant to the application or relevant policies are out of date at the time of making the decision then the Council will grant permission unless material considerations indicate otherwise – taking into account whether:

- *Any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the National Planning Policy Framework taken as a whole; or*
- *Specific policies in that Framework indicate that development should be restricted.”*

Duty to co-operate

3.6. The plan should be prepared in accordance with the duty to co-operate with neighbouring councils and should seek to meet objectively assessed development and infrastructure requirements, including unmet requirements from neighbouring authorities where it is reasonable to do so and consistent with achieving sustainable development. Joint working is expected to enable LPAs to work together to meet development requirements that cannot wholly be met within a district, such as for lack of physical capacity or because it would cause harm to the principles and policies of the NPPF.

Previously developed land

3.7. The national brownfield target for housing development has been removed. The draft NPPF was criticised for not specifying a sequential approach that gave priority to use of brownfield land. The final version now states that councils should “encourage the effective use of land by reusing land that has been previously developed (brownfield land), provided that it is not of high environmental quality”.

Transport

3.8. On transportation issues; development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.

3.9. The national maximum car parking standard for non-residential development has been removed. Local parking standards should take into account the accessibility; type; mix and use of the development; the availability of and opportunities for public transport, local car ownership levels, and the need generally to reduce the use of high emission vehicles.

- 3.10. Developments should be located and designed where possible to give priority to pedestrian and cycle movements and have access to public transport facilities.

Housing

- 3.11. The NPPF aims to significantly increase the supply of housing. LPAs should use their evidence base to ensure that the local plan meets the full, objectively assessed needs for market and affordable housing in the housing market area, as far as is consistent with the policies set out in the NPPF. It is not yet clear on what basis this target should be defined and measured. The work currently being prepared on the Allocations Document for the Braintree District LDF is consistent with the scale of growth set out in the LDF Core Strategy (adopted in September 2011), which in turn is based on the housing provision for the District set out in the East of England Plan. It would be desirable for a future review of the scale of proposed growth in the Core Strategy to be carried out after the adoption of the Site Allocations and Development Management Plan, starting in about 2 years time. This would be able to take into account the results of work on demographic projections by consultants for Essex districts, and it would be desirable for work to be carried out to update the projections to make use of information from the 2011 Census and from the most recent available CLG household projections.
- 3.12. The Plan should identify key housing sites, which are critical to the delivery of the strategy over the plan period, and should identify the size and type tenure and range of housing that is required in particular locations, reflecting demand. The needs of different groups in the community should be planned for. This principle was expressed in PPS3 but the NPPF has now added specific reference to service families and people wishing to build their own homes. LPAs should set out their own approach to housing density to reflect local circumstances (as was the case under Planning Policy Statement 3), and should consider the case for setting out policies to resist inappropriate development of residential gardens.
- 3.13. Housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up to date if the LPA cannot demonstrate a 5 year supply of deliverable sites, in this case permission should be granted unless adverse impacts would significantly and demonstrably outweigh the benefits, or specific policies in the NPPF indicate development should be restricted. It is clearly important that the Council should continue to be able to demonstrate that a 5 year supply exists. This is set out in the Annual Monitoring Report.
- 3.14. The draft NPPF required all LPAs to identify an additional 20% of housing land for the 5 year supply of readily available land, as a buffer to ensure delivery against target and to increase choice and competition in the market for land. This requirement has been reduced in the final version to 5% above target, with the exception of LPAs that have a record of “persistent under delivery of housing” where the buffer will be 20%. For Braintree District, if this is defined in terms of the current Core Strategy target or the East of England Plan (the NPPF does not define against what target under-delivery is determined), the Council’s record should currently mean that the “buffer” would be 5%. The buffer can be identified from sites that are readily available but, were forecast to be built after the 5 year period – that is to say the guidance does not increase the overall supply target by 5%.
- 3.15. The final version of the NPPF relaxes the approach on the inclusion of windfall sites in housing supply assessments, in that it permits a reasonable allowance for windfall sites to be included if there is compelling evidence that such sites

consistently become available and will continue to provide a reliable source of supply (such evidence to exclude residential garden sites).

- 3.16. The national indicative minimum site size threshold for requiring affordable housing to be delivered has been removed from guidance (although PPS3 did state that LPAs could set a lower threshold where viable and practicable); and there is increased flexibility for rural affordable housing policy (see Countryside and Rural Areas, below).

Employment

- 3.17. Although the NPPF places considerable emphasis on the need for planning to support and encourage economic growth, the guidance also indicates that long term protection of sites allocated for employment should be avoided where there is no reasonable prospect of a site being used for employment. In such circumstances consideration of alternative uses should have regard to market signals and the relative need for different land uses needed for sustainable local communities. LPAs should normally approve planning applications for change of use of B use-class commercial buildings to residential use where there is an identified need for additional housing in that area, provided that there are not strong economic reasons why this would be inappropriate.

Town Centres

- 3.18. The draft NPPF removed offices from the definition of town centre uses, and proposed some relaxation of the sequential test policy when considering proposals for town centre uses outside of town centres. This came in for some criticism, and the final version of the guidance now includes offices as a main town centre use and emphasises the importance of the sequential test (this does not apply to applications for small scale rural development). LPAs should require applications for main town centre uses to be in town centres. Where no suitable town centre sites are available, preference should be given to edge of centre sites, and sequentially then out-of-centre sites that are accessible and well connected to the town centre. LPAs should assess the need to expand town centres to ensure a sufficient supply of suitable sites.
- 3.19. For major town centre schemes where full impact will not be realised within 5 years, impacts should also be assessed for a period of up to 10 years.

The Countryside and Rural Areas

- 3.20. The draft NPPF was criticised for not referring to the intrinsic value of countryside in itself; that is, countryside which is not designated for particular protection such as Green Belt or Sites of Special Scientific Interest. The final version of the NPPF gives broader protection to countryside by referring to the “intrinsic character and beauty of the countryside” as a core planning principle.
- 3.21. Nonetheless, the NPPF seeks to encourage economic growth in rural areas; LPAs should support the sustainable growth and expansion of all types of business and enterprise in rural areas, both through conversion of existing buildings and by well designed new buildings. In considering rural exception sites, LPAs should consider whether allowing some market housing would facilitate the provision of significant affordable housing to meet local needs (previously rural exception sites were solely for affordable housing in perpetuity). Local needs in rural areas are defined to include within the context of the duty to co-operate with neighbouring authorities.

3.22. Planning Policy Statement 7 included useful technical guidance in Annex A on the assessment of proposals for agricultural, forestry or other occupational dwellings. This has been lost in the streamlining process. This guidance was important to help guard against abuse of the special policy provisions for such dwellings, and ensure that the proposal was to meet a genuine need of this nature. The Council may wish to consider making representations to the Government and/or to the Planning Advisory Service that underpinning guidance on this matter is needed (see paragraph 1.2 above). Alternatively, such guidance could be incorporated in the LDF Development Management Policies. The CLG website confirms that Annex E of PPG7, however, remains extant; this deals with technical guidance on permitted development rights for agriculture and forestry. PPG Annex E was retained at the publication of PPS7 (which otherwise superseded PPG7).

Green infrastructure and biodiversity

3.23. The NPPF introduces the possibility of “local green spaces” to give special protection to green areas of particular importance to local communities, which can be designated when a local or neighbourhood plan is prepared or reviewed. This is not necessarily land that there is public access to. This is not a means of avoiding development overall. The NPPF indicates that the designation will not be appropriate for most green areas or open space. The site must be in reasonably close proximity to the community it serves, it must hold a particular local significance (for example because of its beauty, historic significance, recreational value, tranquility or richness of wildlife), it must be local in character, and it cannot be an extensive tract of land.

3.24. There is recognition in the NPPF of designation in local plans of locally designated sites of importance for wildlife (including wildlife corridors and stepping stones that connect them); geodiversity, or landscape character. Planning policies should identify and map these components of the local ecological networks, and areas identified by local partnerships for habitat restoration or creation.

3.25. LPAs are required to take a strategic approach in local plans to the creation, protection, enhancement and management of networks of biodiversity and green infrastructure. The policies relating to evidence requirements on need and supply of open space, sports and recreational facilities; and on the protection of existing land and facilities, remain in place. Planning policies should protect and enhance public rights of way and access.

Neighbourhood Plans

3.26. Whereas the draft NPPF appeared to say that both local plans and neighbourhood plans had precedence, the final version clarifies the position. On strategic policies; neighbourhood plans must be in general conformity with the strategic policies of the local plan and should not promote less development or undermine the strategic policies of the local plan. On non-strategic policies; the policies of the neighbourhood plan once brought into force take precedence over non-strategic policies in the local plan for that area, where they are in conflict.

4. Conclusions

4.1 Some concern has been expressed that the simplified guidance lacks clarity, leaving clarification to be developed via planning appeals and judicial decisions.

4.2 The Council will need to examine the policies in the LDF Core Strategy (adopted September 2011) to assess the extent to which the Core Strategy is in alignment with the guidance in the NPPF.

- 4.3 The Council will need to incorporate the required new policy on the presumption in favour of sustainable development within the Site Allocations and Development management Plan.
- 4.4 It is expected that the Council should be in a strong position, having a recently adopted Core Strategy and having a 5-year land supply position confirmed at the Core Strategy hearing and subsequently in the 2011 Annual Monitoring Report. This would meet the requirement for an additional 5% buffer as the District has a good record of delivery against the housing supply target.
- 4.5 The development management policies contained in the Review Local Plan were adopted in 2005. They will need to be assessed against the NPPF to establish the degree, if any, of conflict with the NPPF. The new development management policies being developed for the LDF will need to take the NPPF into account, as will the work on site allocations.