

Bath & North East Somerset Council

MEETING:	Development Control Committee	AGENDA ITEM NUMBER	
MEETING DATE:	28 th September 2011		
RESPONSIBLE OFFICER:	Lisa Bartlett, Development Manager of Planning and Transport Development (Telephone: 01225 477281)		
TITLE:	DRAFT NATIONAL PLANNING POLICY FRAMEWORK		
WARD:	ALL		
BACKGROUND PAPERS: Draft National Planning Policy Framework			
AN OPEN PUBLIC ITEM			

The Issue

- 1.1 The Government is in the process of streamlining and national Planning policy. To this end it has issues a draft National Planning Policy Framework (NPPF). Once adopted, this will replace existing planning policy and planning applications will need to be determined in accordance with it.
- 1.2 The NPPF entails policy changes which have significant implications for Bath & North East Somerset. The Government has asked for comments on the NPPF by 17th October and the Cabinet meeting on 12th October will be agreeing the response from B&NES. Attached to this report is the draft Cabinet report. The report outlines the key implications of the policy changes for B&NES and recommends a response to Government.

Recommendation

That the Development Control Committee;

- a. consider the changes to national policy arising from the draft National Planning Policy Framework and the implications for B&NES as set out in the attached draft report and,
- b. advise the Cabinet on the need for any further changes to the draft National Planning Policy Framework

Bath & North East Somerset Council		
MEETING:	Cabinet	
MEETING DATE:	12 October 2011	EXECUTIVE FORWARD PLAN REFERENCE:
		E 2316
TITLE:	National Planning Policy Framework – Response from Bath and North East Somerset Council	
WARD:	All	
AN OPEN PUBLIC ITEM		
List of attachments to this report: APPENDIX ONE: KEY CHANGES TO NATIONAL PLANNING POLICY		

2 THE ISSUE

- 2.1 This report highlights some of the implications for Bath & North East Somerset of the Government's key changes to planning policy as proposed by the Draft National Planning Policy Framework (NPPF), and sets out a proposed response to the consultation.
- 2.2 This report is not a comprehensive review of the National Planning Policy Framework and its potential implications. The NPPF has generated a considerable reaction from numerous bodies who will be submitting their own responses to specific elements of the NPPF consultation.

3 RECOMMENDATION

The Cabinet agrees that:

- 3.1 The comments in paras 5.4 – 5.17 of this report, as well as those contained in Annex 1 are forwarded to the Department for Communities and Local Government, with the request that amendments are made to the Draft NPPF.

4 FINANCIAL IMPLICATIONS

- 4.1 The National Planning Policy Framework, in seeking to radically streamline and simplify planning policy within a rapid timeframe, contains a number of inconsistencies and uncertainties that have the potential of increasing the number of appeals that the Council needs to defend. This could result in additional costs to the Council.

5 CORPORATE PRIORITIES

- *Building communities where people feel safe and secure*
- *Improving life chances of disadvantaged teenagers and young people*
- *Sustainable growth*
- *Improving the availability of Affordable Housing*
- *Addressing the causes and effects of Climate Change*
- *Improving transport and the public realm*

6 THE REPORT

- 6.1 The NPPF will be a material consideration in the preparation of B&NES planning policy. The B&NES Core Strategy has been prepared within the context of existing national policy. It should be noted, following a request from the Planning Inspector, that a report was presented to the September Cabinet meeting highlighting the changes that would be needed to the Core Strategy to enable it to better reflect the Draft National Planning Policy Framework, as it is currently drafted. This new report looks more generally at some of the proposed changes to the National Planning Policy Framework, and the Council's response to it.

Introduction

- 6.2 The Government has published a draft version of the National Planning Policy Framework (NPPF) for consultation. This NPPF entails a review of existing national planning policy and its replacement with a single national policy document. It replaces 1,300 pages of planning policy with a single document of 58 pages long, and is due to be adopted by the end of this year. Following this, it is proposed to review and refine the 6,000 pages of supporting guidance to existing national planning policy. There is no clear programme for this task.
- 6.3 The key issues proposed in the National Planning Policy Framework are highlighted in Appendix A. Some of the most pertinent issues, together with a recommended response to each, are included below.

Sustainable Development

- 6.4 The NPPF introduces the 'presumption in favour of sustainable development' as well as also re-emphasising the importance to be placed on the plan led system. There is concern however that even if a Council's Local Plan is up to date and consistent with the NPPF, interpretation by parties will differ as to what constitutes sustainable development and that this could place additional resource pressures on the part of the Council in relation to defending its position. It is considered that adding the presumption in favour of sustainable development creates an ambiguity and will undermine the development plan.

- 6.5 If the Council does not have an up-to-date plan, then the national policy of a presumption in favour of development will apply in the determination of planning applications. Therefore, if the Council wishes to achieve its own priorities for managing change and protecting assets within the District, it is imperative that the Council has an up to date Local Plan. This certainty provides business and investor confidence in what development will be encouraged and be acceptable with the District.
- 6.6 **Comment to CLG: The ambiguity in the term ‘sustainable development’ should be resolved in the NPPF with an unambiguous definition of sustainable development, and clarification as to how this should be weighted against other material considerations. Or, the ambiguity could be resolved by removing the presumption in favour of sustainable development.**
- 6.7 **Additionally, a comment should be made as to whether a Sustainability Appraisal of the Draft NPPF has been carried out.**

Housing land supply

- 6.8 Local Planning Authorities are still required to maintain a rolling supply of specific deliverable sites sufficient to provide five years worth of housing . However, the NPPF introduces a significant new requirement that the five year supply should include an additional allowance of at least 20% to ensure choice and competition in the market for land. The Strategic Housing Land Availability Assessment (SHLAA) will need to be updated to take this into account. If the SHLAA cannot demonstrate a five year +20% supply of housing land then the NPPF states that applications would be permitted in accordance with the presumption in favour of sustainable development
- 6.9 This is a significant issue for B&NES and many other authorities because we do not have a five year +20% supply of housing land. This potentially means that the Core Strategy will be found unsound by the Inspector with the resultant risk of increased planning appeals at a range of development locations.
- 6.10 **Comment to CLG: The addition of 20% to the 5 year housing land supply should be removed from the NPPF.**

Certificate of conformity

- 6.11 The NPPF states that ‘local plans are the key to delivering development that reflects the visions and aspirations of local communities’ and that ‘up-to-date Local Plans ... which are consistent with [the NPPF], should be in place as soon as practical’.
- 6.12 The NPPF suggests that Local Councils can apply for a Certificate of Conformity to demonstrate that their existing Core Strategy conforms to NPPF. Plans that are not in conformity will be deemed ‘out-of-date’ and the presumption in favour of sustainable development would therefore apply to all planning applications.
- 6.13 It is unclear whether a Certificate of Conformity would be granted to the Council’s saved local plan policies. Guidance on achieving a Certificate of Conformity will be published when the NPPF is adopted, and therefore it is difficult at this stage to make a judgment as to whether our saved policies would be granted a Certificate of Conformity or not. This uncertainty could create a serious policy vacuum until these policies have been reviewed and updated as part of the Placemaking Plan. Members should be mindful of the

potential need to accelerate this review should it be found that the saved policies are not able to be used in the determination of planning applications.

- 6.14 **Comment to CLG: Transitional arrangements need to be established that enable local authorities to maintain existing planning policies whilst generating new local plans.**

Housing Requirement

- 6.15 The Draft NPPF states that local plans should plan for *full* housing requirement as suggested by local evidence (which is clarified elsewhere as population/household projections). Projections are merely an extrapolation of the last 5 years trends and do not represent a robust basis on which to plan for the future.
- 6.16 **Comment to CLG: the apparent requirement for housing need assessments process is not solely reliant on extrapolations of past rates but is based on a fuller assessment of housing need including local testing (informed by public debate/scrutiny).**
- 6.17 **Green Belt:** Core Green Belt protection will remain in place, although four changes to the detail of current policy are proposed:
- (1) Development on previously-developed Green Belt land is already permissible if the site is identified in the local plan as a Major Developed Site – it is proposed to extend this policy to any site not already identified in a local plan
 - (2) Park and Ride schemes are already permissible, with certain safeguards – it is proposed to extend this to a wider range of local transport infrastructure and maintain these safeguards.
 - (3) Community Right to Build schemes will be appropriate development provided they reserve the openness of the Green Belt
 - (4) The alteration or replacement of dwellings is already permissible – it is proposed to extend this to include all buildings, but it is not clear if the existing safeguards will remain.
- 5.17 In all cases, the test to preserve the openness and purposes of including land in the Green Belt will be maintained. These changes entail a policy change of particular significance for B&NES, potentially loosening existing restrictions on development permissible in the Green Belt. Members may wish to object to these amendments.
- 5.17 The appropriateness of existing Green Belt boundaries should only be considered when a Local Plan is being prepared or reviewed. At that time, authorities should consider the Green Belt boundaries having regard to their intended permanence in the long term, so that they should be capable of enduring beyond the plan period. Preparation of the Placemaking Plan will entail a review of the detailed Green Belt boundaries.

7 RISK MANAGEMENT

- 7.1 The report author and Lead Cabinet member have fully reviewed the risk assessment related to the issue and recommendations, in compliance with the Council's decision making risk management guidance.

8 EQUALITIES

- 8.1 An equalities impact assessment is not required for this report as it is a response to proposed government policy that should be subject to its own equalities impact assessment.

9 RATIONALE

- 9.1 The Draft National Planning Policy Framework, as currently worded, is ambiguous in a number of areas. If these are not addressed it could have an adverse impact on the robustness of the Council's planning policy frameworks including the saved local plan policies, the Draft Core Strategy and the emerging Placemaking Plan. It will also place significant additional resources on the Planning Service.

10 OTHER OPTIONS CONSIDERED

- 10.1 None.

11 CONSULTATION

- 11.1 *Ward Councillor; Cabinet members; Parish Council; Town Council; Trades Unions; Overview & Scrutiny Panel; Staff; Other B&NES Services; Local Residents; Community Interest Groups; Stakeholders/Partners; Other Public Sector Bodies; Charter Trustees of Bath; Section 151 Finance Officer; Chief Executive; Monitoring Officer*
- 11.2 Anyone can respond directly to the consultation. However the Council has facilitated this through a community engagement exercise which invites comments on how the NPPF could affect policy in the emerging Core Strategy.

12 ISSUES TO CONSIDER IN REACHING THE DECISION

- 12.1 *Social Inclusion; Customer Focus; Sustainability; Human Resources; Property; Young People; Human Rights; Corporate; Health & Safety; Impact on Staff; Other Legal Considerations*

13 ADVICE SOUGHT

- 13.1 The Council's Monitoring Officer (Divisional Director – Legal and Democratic Services) and Section 151 Officer (Divisional Director - Finance) have had the opportunity to input to this report and have cleared it for publication.

Contact person	<i>David Trigwell Divisional Director, Planning and Transport 01225 394125 Simon de Beer Policy & Environment Manager 01225 477616</i>
Sponsoring Cabinet Member	<i>Councillor Tim Ball</i>
Background papers	<i>Draft National Planning Policy Framework see: http://www.communities.gov.uk/publications/planningandbuilding/draftframework</i>
Please contact the report author if you need to access this report in an alternative format	

APPENDIX 1 To Cabinet Report : Key changes to national policy

- The NPPF is a draft document currently out for consultation¹ which is intended to bring together Planning Policy Statements, Planning Policy Guidance Notes and some Circulars into a single consolidated document. Whilst still in draft, it must be recognised that many of the changes contained in the NPPF are likely to be adopted and that they indicate the Government's proposed 'direction of travel'. The Government's intention is for the final NPPF to be published by the end of the 2011.
- **Removing office development from 'town centre first' policy:** Current town centre policy applies to office development as it does to retail and leisure development. The objective of the change in the NPPF is to free office development from the need to follow the requirements of the 'Town Centre First' policy. This will enable proposals to be judged on their individual merits including taking account of local and national policies on the location of new development that generates significant movement of people and the relative supply and demand of or for office space in different locations.
- **Removing the brownfield target for housing development:** A specific target for brownfield land was first established by the 1995 housing white paper, which aspired to 50 percent of all new dwellings being built on brownfield land. In 1998, this was increased to 60 percent. Government wants to move away from a prescriptive designation of land towards a concept of "developable" land where local areas decide the most suitable locations for housing growth based on their local circumstances. Local councils will be able to allocate sites that they consider are the most suitable for development without being constrained by a national brownfield target.
- **Remove the national minimum site size threshold for requiring affordable housing to be delivered:** Current national planning policy sets a minimum site threshold of 15 units for requiring affordable housing to be delivered for all local councils. This means that any development of 15 units or more will trigger a negotiation over a contribution (paid by the developer) for affordable housing via a section 106 agreement. By removing the centrally set 15-unit threshold for affordable housing, complete control will be given to local councils. This will allow greater flexibility for local councils to seek optimum solutions for their local areas, based on local evidence of need. This complements the existing Core Strategy approach.
- **Removing rural exception sites policy:** Current policy allows local councils to set 'rural exception site' policies which allocate and permit sites solely for affordable housing in perpetuity for local people in small rural communities. However, currently, the rigid requirement for sites to be only for affordable housing limits local councils' options for meeting the full range of housing needs. This can lead

¹ <http://www.communities.gov.uk/publications/planningandbuilding/draftframework>

to local councils being discouraged from taking a wider view on the need for housing in those rural areas and considering the balance to be struck between the benefits of meeting housing needs and maintaining current constraints. The Government's objective is to maintain the focus on affordable housing but give local councils greater flexibility to set out their own approach to delivering housing, including allowing for an element of market housing where this would facilitate significant additional affordable housing to meet local requirements. To ensure development is sustainable, rural housing that is distant from local services should not be allowed. The Core Strategy already covers this by allowing market housing to deliver affordable housing, although only in relation to rural exception sites.

- ***Removing the maximum non-residential car parking standards for major developments:*** The current policy (Planning Policy Guidance Note 13: Transport) sets out national maximum parking standards for non-residential uses (i.e. the upper level of acceptable car parking provision) and size thresholds at which these maximum standards should apply. Current Government policy on non-residential parking standards for major developments, such as retail and leisure developments over 1,000m² and offices over 2,500m² is considered too centralised and prevents local councils from developing policies that are most appropriate to their local circumstances and communities. Although it is open to us to provide our own maximum parking standards for non-residential development if deemed necessary - and this can be done in the Placemaking Plan - it would be of benefit for reasons of consistency to establish agreement between neighbouring authorities on appropriate standards to apply at the sub-regional level.
- *There are a number of general concerns over proposed changes to transport policy, such as:*
 - *A lack of clarity over definitions eg 'transport grounds' is vague, 'residual impacts' are unclear and 'severe' is undefined and unhelpful. It is unclear how any of these terms would be viewed by an inspector at an appeal, potentially leading to inconsistent decision making*
 - *Planning policies that seek to ensure that development is located in areas which reduce the need to travel or where the use of sustainable transport can be maximised, can only apply where proposals are likely to 'generate significant movement'. This, subject to other policies in the NPPF, would ignore the cumulative impacts of more minor development.*
 - *A weakened emphasis on sustainable modes of transport with escape clause statements such as 'where practical' . 'encouragement', 'support' and 'reasonable to do so'.*
 - *Local planning authorities will be required to 'provide robust evidence' when identifying and safeguarding sites and routes which might be critical in developing infrastructure to widen transport choice. Whilst*

this may seem reasonable, it will put additional resources on local planning authorities to provide such evidence, and any evidence could potentially be undermined if delivery cannot be demonstrated within a reasonable period. This belies the nature of many strategic transport interventions that rely on incremental development or staged funding to enable their implementation.

- **Local Green Space designation:** The Government's preferred option would be to introduce a new protection for locally important green space that is not currently protected by any national designation, giving greater discretion and decision-making powers to local councils and local communities reflecting the fact that some land is particularly valued by communities and requires additional protection. Local Green Spaces can only be designated at the plan making stage, for example through Neighbourhood Plans or Council local plans.
- **Decentralised energy targets:** The Government expects local councils to continue to support decentralised energy but does not need to require local councils through national planning policy to set council wide decentralised energy targets. If local councils wish to set their own targets they can, and the policies in the Framework would not prevent such targets provided in their implementation they do not make development unviable. This complements the existing Core Strategy approach.
- **Proactive approach to identifying opportunities for renewable and low carbon energy:** The objective is to ensure that the planning system contributes effectively to the delivery of the Government's energy and climate change policy. The preferred option expects local authorities to consider identifying suitable areas for renewable and low-carbon energy sources, and supporting infrastructure, where this would help secure the development of such sources. Where developers bring forward proposals outside opportunity areas mapped in a local or neighbourhood plan they are asked to demonstrate that the proposed location meets the criteria used in plan making. This should provide transparency, and bring greater predictability to the planning application process.
- **Historic environment:** This section of the NPPF streamlines and simplifies the existing policy position of PPS5 (Planning for the Historic Environment). Whilst there continues to be an emphasis on the importance of the historic environment, there is concern that a consequence of this streamlining is increased ambiguity which could result in a weakening of protection for the historic environment and could lead to buildings and sites of archaeological interest being harmed without adequate investigation and expert analysis.

In addition, the emphasis on and interpretation of, the presumption in favour of sustainable development as a material consideration may undermine the protection of heritage assets. It should be noted that the NPPF highlights that development which has a 'significant effect on sites protected under the Birds

and Habitats Directives would not be sustainable', and that similar approach does not apply to World Heritage Sites. This is something that the Local Authority World Heritage Forum (LAWHF) is considering in their response to Government.

The presumption in favour of conservation contained within Policy HE 9 of PPS 5 appears diminished within the less certain "should be" Objective 176 of the NPPF. The reinstatement of the presumption should be requested.

Para HE1.1 to Policy HE1 of PPS 5 made a good point that the retention of heritage assets avoids the consumption of building materials, energy and waste created by the construction of replacement buildings, and a place should be found for it within the NPPF.

The overriding statutory requirements in the Town & Country Planning (Listed Buildings and Conservation Areas) Act to consider the preservation of listed buildings and conservation areas are not directly reduced by the proposals but the NPPF could establish difficult tensions particularly as regards to the setting of heritage assets. The concern lies with undesignated parts of local heritage. The NPPF seems to be inadequate in respect of undesignated heritage assets, in particular archaeological sites which previously drew protection only through PPG 16 and PPS 5. Specific reference to the need to protect irreplaceable and finite archaeological resources should be included as an Objective.