

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		

## **1 THE ISSUE**

- 1.1 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.
- 1.2 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.

## **2 RECOMMENDATION**

The Cabinet agrees that:

- 2.1 The comments in paragraphs 5.4 – 5.19 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.
- 2.2 Delegated authority be granted to the Divisional Director for Planning and Transport, in consultation with the Cabinet Member for Service Delivery, to finalise the comments to be submitted.

### **3 FINANCIAL IMPLICATIONS**

- 3.1 The National Planning Policy Framework, in seeking to 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.

### **4 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*

### **5 THE REPORT**

- 5.1 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 Council 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**

- 5.2 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.
- 5.3 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**

- 5.4 The NPPF introduces the 'presumption in favour of sustainable development' as well as re-emphasising the importance of the plan-led system. Whilst this is supported, there is concern 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 and determining planning applications. It is considered that adding the presumption in favour of sustainable development creates an ambiguity and will undermine the development plan.
- 5.5 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 Core Strategy. This certainty provides business and investor confidence in what development will be encouraged and be acceptable with the District.

**5.6 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. Alternatively, the presumption in favour of sustainable development should be clarified so as to not override the primacy of the local plan.**

**5.7 Additionally, a comment should be made as to whether a Sustainability Appraisal of the Draft NPPF has been carried out.**

### **Housing land supply**

**5.8** 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 B&NES Strategic Housing Land Availability Assessment (SHLAA) will need to be updated to take this into account and the only scope to do this is to add significant greenfield land. The existing SHLAA has sought to undertake a thorough assessment of available brownfield land in the District. 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

**5.9** 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.

**5.10 Comment to CLG: The addition of 20% to the 5 year housing land supply should be removed from the NPPF.**

### **Certificate of conformity**

**5.11** 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’.

**5.12** 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.

**5.13** 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.

- 5.14 **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**

- 5.15 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.
- 5.16 **Comment to CLG: the apparent requirement for housing need assessments 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).**
- 5.17 **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 preserve 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.
- 5.18 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. Members also need to be aware of the increased resource pressure that the proposals will put on the Council's Development Management Service.
- 5.19 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.

## **6 RISK MANAGEMENT**

- 6.1 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.

## **7 EQUALITIES**

- 7.1 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.

## **8 RATIONALE**

- 8.1 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.

## **9 OTHER OPTIONS CONSIDERED**

- 9.1 None.

## **10 CONSULTATION**

- 10.1 *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*
- 10.2 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.

## **11 ISSUES TO CONSIDER IN REACHING THE DECISION**

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

## **12 ADVICE SOUGHT**

- 12.1 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.

<b>Contact person</b>	<i>David Trigwell Divisional Director, Planning and Transport 01225 394125 Simon de Beer Policy &amp; Environment Manager 01225 477616</i>
<b>Sponsoring Cabinet Member</b>	<i>Councillor Tim Ball</i>

<b>Background papers</b>	<i>Draft National Planning Policy Framework see:</i> <a href="http://www.communities.gov.uk/publications/planningandbuilding/draftframework">http://www.communities.gov.uk/publications/planningandbuilding/draftframework</a>
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