

## STAFFORDSHIRE MOORLANDS DISTRICT COUNCIL

### Report to Cabinet

24 April 2018

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| <b>TITLE:</b>            | <b>National Planning Policy Framework Consultation</b>            |
| <b>PORTFOLIO HOLDER:</b> | <b>Councillor Edwin Wain - Planning, Development and Property</b> |
| <b>CONTACT OFFICER:</b>  | <b>Pranali Parikh – Regeneration Manager</b>                      |
| <b>WARDS INVOLVED:</b>   | <b>All areas</b>  |

1. **Reason for the Report:** To inform Councillors of the proposals in the draft National Planning Policy Framework which is currently subject to consultation. The report also makes recommendations regarding responding to the consultation.
  
2. **Recommendation**
  - 2.1 That Councillors note the proposals in the draft National Planning Policy Framework and the proposal to work with the Local Government Association to submit a joint response (Option 1 in Section 5).
  - 2.2 That Councillors note the implications for the Local Plan Submission Version.
  
3. **Executive Summary**
  - 3.1 The Government is consulting on a revised draft of the National Planning Policy Framework (NPPF) and supporting guidance until 10<sup>th</sup> May. The consultation builds on previous document issued by Government, including the Housing White Paper. The revised NPPF seeks to facilitate further housing growth, protect the green belt, streamline developer contributions and reflect changes since the introduction of the original NPPF in 2012 such as Written Ministerial Statements and case law.
  - 3.2 Much of the draft document can be welcomed. However, there are concerns regarding the proposed approach to developer contributions which may have a negative impact on the ability to maximise affordable housing contributions

on viable sites. Other concerns include the implications of the proposed Housing Delivery Test and the standard methodology for assessing Local Housing Needs. It is proposed that Council engages with the Local Government Association to submit a response to the consultation as it is more likely to influence the final NPPF.

- 3.3 Once the NPPF is finalised later this Summer, it will be a material consideration to planning applications. In terms of the implications for the emerging Local Plan, the draft NPPF states that the current NPPF will apply for the purposes for examining plans that have been submitted within six months of the publication of the updated NPPF. In these cases, the examination will take no account of the new NPPF. Accordingly, if the Council submits the Local Plan in June 2018 in line with the agreed timetable, it will be examined under the current NPPF. However, at the time of writing, there appears to be a discrepancy between the draft NPPF and the supporting information published by Government which suggests that the new “positively prepared” and “effective” tests of soundness will apply. Clarification has been sought from Government on this issue. A response is awaited.
- 3.4 If the Local Plan is withdrawn or otherwise does not proceed to adoption following publication of the new NPPF, the policies of the new NPPF would apply. Any future review of the Local Plan would also be taken forward in accordance with the new national policies.

#### 4. **How this report links to Corporate Priorities**

- 4.1 The National Planning Policy Framework will have implications for the following Corporate Priorities by influencing future decisions regarding planning applications and any updates to the Local Plan:
- Aim One - Help create a safer and healthier environment for our residents to live and work
  - Aim Three – To create a strong economy by supporting further regeneration of towns and villages
  - Aim Four - Protect and improve the environment.

#### 5. **Options and Analysis.**

- 5.1 Option 1 (recommended) – that the Council liaises with the Local Government Association to submit a joint response to the consultation. This is recommended as it is considered that such a response will carry more weight.
- 5.2 Option 2 (not recommended) – that the Council submits its own response or does not respond to the consultation. This is not recommended as it would provide the Council with less or no influence over national policy.

#### 6. **Implications**

6.1 Community Safety - (Crime and Disorder Act 1998)

No implications.

6.2 Workforce

None direct

6.3 Equality and Diversity/Equality Impact Assessment

The report has been prepared in accordance with the Council's Diversity and Equality Policies.

6.4 Financial Considerations

The potential for the proposed Housing Delivery Test to influence future New Homes Bonus payments could have financial implications for the Council. This will be subject to separate consultation at a later date. As such, the implications at this stage are unclear.

6.5 Legal

Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990 dictates that applications for planning permission should be determined in accordance with the development plan, unless material considerations indicate otherwise. Once adopted, the new NPPF will become a material consideration to planning applications.

6.6 Sustainability

The draft NPPF still requires Local Plans to be supported by a Sustainability Appraisal.

6.7 Internal and External Consultation

The draft National Planning Policy Framework has been published for public consultation until 10<sup>th</sup> May. It is proposed that the Council engages with the Local Government Association to prepare a joint response to Government.

6.8 Risk Assessment

If the Council does not engage with the consultation, there will be an increased risk that the revised NPPF has a negative impact on the District. If the Council does not engage with the Local Government Association to respond, there is an increased risk that the District Council's response will carry less weight. These risks

are minimised, but not eliminated, through Option 1 in Section 5 to this report.

## 7. Background and Detail

- 7.1 The National Planning Policy Framework (NPPF) sets out the Government's policy in respect of planning and how they should be applied. It provides the framework for the preparation of Local Plans and other planning documents such as Neighbourhood Plans. The NPPF is also a material consideration for planning applications. The current NPPF was established in 2012 and has been subject to review by Government. A revised draft has now been issued for consultation which builds on initial proposals published by Government in previous years. The proposals reflect consultation feedback gathered to date, Written Ministerial Statements issued since the publication of the NPPF in 2012 and the effect of case law on the interpretation of the current NPPF.
- 7.2 Alongside the draft NPPF are proposals for updates to the National Planning Practice Guidance (NPPG) which supplements the NPPF. Further proposals for reforming developer contributions (S106 agreements) are also expected to be brought forward through regulations.
- 7.3 The overarching premise of the draft NPPF is to facilitate the Government's drive to increase house building across England with a view to delivering 300,000 net additional homes per year. However, there remains a strong commitment to protect the Green Belt. In this context, a summary of the key proposals is provided below. A link to the Government's own overview of the proposals and detailed wording of the draft NPPF is provided at the end of this report.

### Housing requirements and supply

- A new standard methodology for determining local housing needs is proposed to determine the minimum number of homes to be provided for in Local Plans. Any needs that cannot be met within neighbouring areas should also be taken into account. The methodology should apply unless there are exceptional circumstances that justify an alternative approach which also reflects current and future demographic trends and market signals. The assessment of Local Housing Need will be informed by the latest household projections over a ten year period published by the Government with an adjustment to reflect local affordability of housing. This is determined by considering the ratio of local average income to local average house prices applying data published by the Office for National Statistics. Provisions for caps to the Local Housing Need are also set out in recognition of the fact that in some parts of the country, the new methodology will result in an increase in housing requirements. Based on data currently available, the Local Housing Need figure in Staffordshire Moorlands would be lower than the current Local Plan Submission Version requirement (320 homes per year) and objectively assessed need for housing (330 homes per year). However, it is important to note that the current figures include an uplift to support economic growth and affordable housing provision which does not form part of the standard

methodology. The new method also only determines the minimum number of homes to be provided. New household projections and affordability ratio data is due to be published later this year. This data will confirm the implications of the new methodology when it is in place. An extract from the draft NPPG is provided at Appendix 1 to this report which sets out the methodology in more detail. The greater certainty regarding the minimum number of homes to be provided under the standard methodology is supported. However, it is considered that development requirements for Local Plans will still prove to be contentious. In order to provide further clarity for areas seeking to provide more homes than the minimum number required, it is considered that the NPPG should provide further guidance and support for this. This would apply in areas such as Staffordshire Moorlands with a high need for affordable housing and where economic growth would also be facilitated through additional housing.

- Local plans should provide for objectively assessed needs for development, including unmet need from neighbouring areas, unless particular policies provide "a strong reason for restricting the overall scale" of development. The balancing exercise to justify not meeting needs in full whereby any adverse impacts of doing so would significantly and demonstrably outweigh the benefits remains. This proposal formalises what in effect has already been good practice as local authorities have sought to address unmet housing needs through the Duty to Co-operate. The Council has already engaged with relevant neighbours on this basis and has been unable to address the small housing shortfall of 190 homes in the plan.
- Policies providing a specific reason for restricting development are set out in a defined list rather than as examples as in the present NPPF. They include green belt, land "within" national parks, local green spaces and Sites of Special Scientific Interest. This clarity is supported. However, recognition of the constraints placed on local authorities that adjoin or a partially within a national park should also be acknowledged given their statutory duty to have regard to the purposes of national park as specified in the Environment Act 1995, namely;
  - (i) to conserve and enhance the natural beauty, wildlife and cultural heritage of the national parks; and
  - (ii) to promote opportunities for the understanding and enjoyment of the special qualities [of the parks] by the public.
- As with the current NPPF, the presumption in favour of sustainable development would be triggered where a council cannot demonstrate a five-year housing supply. In areas with recent<sup>1</sup> Neighbourhood Plans that plan for housing, the NPPF states that it is unlikely that the benefits of the development would outweigh the harm provided that there is a three year supply of housing and its housing delivery was at least 45% of that required over the previous three years. This carries forward the existing extra

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<sup>1</sup> Recent being defined as passed at referendum two years or less before the date on which the decision is made

protection for areas with Neighbourhood Plans as set out in the 2016 Written Ministerial Statement. This reflects the current approach.

- The presumption in favour of sustainable development may also apply where a new housing delivery test indicates that delivery of housing has been substantially below the housing requirement over the previous three years. The Secretary of State will publish the Housing Delivery Test result for each local planning authority in England every November. The full implications of the Housing Delivery Test results are proposed to be:
  - The publication of an action plan if housing delivery falls below 95%. The action plan would set out how the local authority intends to increase delivery;
  - A 20% buffer on a local planning authority's five-year land supply if housing delivery falls below 85%; and
  - The presumption in favour of sustainable development if housing delivery falls below 75%, once proposed transitional arrangements have ended

The transitional arrangements for the Housing Delivery Test are:

- From the day following the publication of the 2018 Housing Delivery Test result, the presumption will apply if housing delivery falls below 25%;
- From the day following the publication of the 2019 Housing Delivery Test result, the presumption will apply if housing delivery falls below 45%;
- From the day following the publication of the 2020 Housing Delivery Test result, the presumption will apply if housing delivery falls below 75% (the final threshold)

The supporting documentation to the draft NPPF suggests that in future, the Housing Delivery Test may also be used in determining New Homes Bonus payments. This would be subject to further separate consultation before proposed implementation in 2019-20. Whilst the need to encourage local authorities to facilitate housing delivery is acknowledged, it is of concern that the proposed housing delivery test will potentially undermine Local Plans and the "plan-led system" if the presumption in favour of sustainable development is applied when delivery falls below 75%. In many instances, delivery can be almost entirely in the hands of private developers with the Council having little opportunity to directly accelerate the implementation of sites with permission. It is also considered that the Housing Delivery Test may act as a dis-incentive to local authorities who may otherwise wish to plan for more homes than the minimum requirement established by the standard methodology due to the extra risk of failing the delivery test and having less influence over future applications. These risks were considered in the report to Council Assembly regarding the publication of the Local Plan on 13<sup>th</sup> February.

- In order to allow authorities to incentivise timely delivery of development, the NPPF allows authorities to consider imposing a planning condition to bring

forward development within two years, except where a shorter timescale could hinder the viability or deliverability of a scheme. It also encourages local planning authorities to consider why major sites have not been built out when considering subsequent planning applications. These measures are to be welcomed.

- Councils would be able to demonstrate a five-year supply of deliverable sites through a recently adopted local plan<sup>2</sup> or an annual position statement. The draft includes a mechanism allowing the five-year land supply position to be agreed for a one-year period, subject to a ten per cent buffer "to account for any fluctuations in the market during that year". This would involve engagement with developers others who have an impact on delivery and then consideration by the Secretary of State. The annual position statement must also incorporate changes recommended by the Secretary of State if agreement cannot be reached between the parties regarding specific sites during the engagement process. The principle of this approach is supported as it would reduce the frequency with which the housing land supply is contested at planning appeals.

## **Local Plans**

- The "tests of soundness" that Local Plans are considered against at examination are proposed to be amended. Plans will need to show that they propose "an appropriate strategy", compared with the current requirement for them to constitute "the most appropriate strategy" for the area. In order for Local Plans to pass the test of being "positively prepared", the draft NPPF states that plans should "meet as much as possible" development needs. This appears to be a softening of these two tests which should be less onerous for local authorities to pass at examination. In order for plans to be considered "effective", they will in future need to be evidenced by statements of common ground which establish strategic matters of co-operation between the Council and other bodies. This Council is in the process of preparing Statements of Common Ground with authorities including; the Peak District National Park Authority, Stoke-on-Trent City Council, Newcastle-under-Lyme Borough Council and Stafford Borough Council. These proposals can be supported.
- There is a new requirement for authorities to review Local Plan policies every five years following the date of adoption, with updates, if necessary, to reflect changing circumstances. This may include changes to the Local Housing Need. The NPPF update merely reflects Regulation 10A of The Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended) which introduced the plan review requirement on 6<sup>th</sup> April 2018.
- The test for Green Belt release to be proposed in Local Plans only in "exceptional circumstances" is carried forward from the existing NPPF. However, further clarification is given on how this must be demonstrated.

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<sup>2</sup> A plan adopted between 1 May and 31 October will be considered 'recently adopted' until 31 October of the following year; and a plan adopted between 1 November and 30 April will be considered recently adopted until 31 October that year

Planning authorities must fully examine "all other reasonable options" for meeting their identified development needs before releasing green belt by; making as much use as possible of suitable brownfield sites and underutilised land, optimising densities in town centres and other locations well served by public transport" and considering the scope for development to be accommodated in neighbouring authorities. Councils are also advised to set out ways in which the impact of removing land from the green belt can be offset through compensatory improvements to the environmental quality and accessibility of remaining green belt land. The clarification of the approach required support green belt release is welcomed.

- Local plans should set out a housing requirement figure for designated neighbourhood areas and this should not need retesting at neighbourhood plan examinations. The Local Plan Submission Version already sets out neighbourhood area requirements for each of the designated neighbourhood areas at the time of publication. This requirement can be supported.
- Where policy requirements have been tested for viability at the plan-making stage, such issues should not usually need to be visited again at the planning application stage. The proposed new policy expects all viability assessments to reflect a recommended approach to be set in revised national planning guidance and says all viability assessments should be made publicly available. The guidance says plans can set out when and how review mechanisms may be used to amend developer contributions to help account for significant changes in costs and values, and how any significant increase in overall value should be apportioned between the local authority and the developer. This is intended to make the process more streamlined and transparent. The principle of this approach is supported. However, it is considered that removing the flexibility for negotiating S106 agreement could have unintended consequences. Some schemes could be rendered unviable unless the policy requirements are set as such a low level that they are viable in the vast majority of cases. Setting requirements at such a level will inevitably result in lower levels of contributions towards planning gain, including affordable housing, from the more viable sites in the District with the potential to support further contributions.
- The consultation document that accompanies the draft NPPF states that the Government is "open to views" over its proposals to require councils to ensure that one-fifth of their housing supply pipeline in Local Plans is made up of small sites of under half a hectare. This approach is considered to be arbitrary and may lead to lengthy Local Plan examinations with discussion around many more sites than previously which, individually, offer little in terms of housing land supply. A more pragmatic approach would be for windfall allowances to count towards the boost to the supply of small sites.
- There is a clear requirement for policies for addressing the housing requirements of groups with particular needs. In addition, to the elderly and disabled, students and travellers have been added to the list, as have people who rent their homes. This can be supported.

## **Developer contributions**



- In a separate consultation, the government proposes that it may in the future consider setting developer contributions nationally and making them "non-negotiable. As stated above, this proposal may have unintended and unhelpful consequences that should be avoided.

### **Timescales and implications**

- 7.4 The consultation closes on 10 May 2018. The final NPPF is expected to be issued later this Summer. Annex 1 to the draft NPPF sets out the transitional arrangements for the implementation of the new NPPF once it is published.
- 7.5 Once the NPPF is finalised later this Summer, it will be a material consideration to planning applications. In terms of the implications for the emerging Local Plan, the draft NPPF states that the current NPPF will apply for the purposes for examining plans that have been submitted within six months of the publication of the updated NPPF. In these cases, the examination will take no account of the new NPPF. Accordingly, if the Council submits the Local Plan in June 2018 in line with the agreed timetable, it will be examined under the current NPPF. However, at the time of writing, there appears to be a discrepancy between the draft NPPF and the supporting information published by Government which suggests that the new “positively prepared” and “effective” tests of soundness will apply. Clarification has been sought from Government on this issue. If the new tests apply, it would place forward the need to put Statements of Common Ground in place. However, this requirement is already being progressed by the Council in advance of its introduction. The new test also states that “*as a minimum, meet as much as possible of the area’s objectively assessed needs*” rather than the current version which reads that Local Plans should “seek to meet objectively assessed development...”
- 7.6 If the Local Plan is withdrawn or otherwise does not proceed to adoption following publication of the new NPPF, the policies of the new NPPF would apply. Any future review of the Local Plan would also be taken forward in accordance with the new national policies.
- 7.7 The Housing Delivery Test will be introduced in line with the transitional arrangements set out earlier in this report. This will provide the Council with an added incentive to ensure that the planned quantum of housing is delivered by taking a pro-active approach with developers and other partners.

Dai Lerner  
**Executive Director - Place**

**Web Links and  
Background Papers**

**Location**

**Contact details**

<https://www.gov.uk/government/consultations/draft-revised-national-planning-policy-framework>

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**APPENDIX 1 – Extract from the draft NPPG – standard methodology for  
assessing minimum Local Housing Needs**

**STEP 1 - SETTING THE BASELINE**

National Household projections, for the area of the local authority, provide the starting point.

The household projections are produced by applying projected household representative rates to the population projections published by the Office for National Statistics. Projected household representative rates are based on trends observed in Census and Labour Force Survey data.

The household projections are trend based, meaning that they provide the household levels and structures that would result if the assumptions based on previous demographic trends in the population and rates of household formation were to be realised in practice. They do not attempt to predict the impact that future government policies, changing economic circumstances or other factors might have on demographic behaviour.

The most recent official projections need to be used to calculate the average annual household growth over a 10 year period.

## **STEP 2 - AN ADJUSTMENT TO TAKE ACCOUNT OF MARKET SIGNALS**

An important consideration in assessing an appropriate level of housing is the affordability of homes, which means that projected household growth needs to be adjusted to take account of market signals.

Median affordability ratios, published by the Office for National Statistics at a local authority level, should be used for adjusting household projections. The affordability ratios compare the median house prices to median workplace earnings. Plan-making authorities should use the most recent year for which data is available.

Each 1% increase in the ratio of house prices to earnings above 4 results in a quarter of a per cent increase in need above projected household growth. The precise formula is as follows:

$$\text{Adjustment factor} = \left( \frac{\text{Local affordability ratio} - 4}{4} \right) \times 0.25$$

The local housing need figure is therefore as follows:

Local housing need = (1+adjustment factor) x projected household growth

So, for example, an area with a projected household growth of 132 a year would have an annual need of:

- 132 if average house prices were 4 times local average earnings
- 165 if average houses prices were 8 times local average earnings
- 198 if average house prices were 12 times local average earnings

## **STEP 3 - CAPPING THE LEVEL OF ANY INCREASE**

The market adjustment could lead to a significant increase in the local housing need in some parts of the country. To help ensure the method is deliverable, a cap on the local

housing need may be applied. The appropriate cap will depend on the current status of the plan in each authority as follows:

a. for those authorities that have reviewed their plan (including a review of local housing need) or adopted their plan in the last five years, a cap may be applied to their new annual local housing need figure at 40% above the average annual requirement figure currently set out in their plan; or

b. for those authorities that have not reviewed their plan (including a review of local housing need) or adopted their plan in the last five years, a cap may be applied to their new annual local housing need figure at 40% above whichever is higher of the projected household growth for their area over the 10 years (using Office for National Statistics' household projections), or the annual housing requirement figure set out in their most recent plan if one exists.