

Cabinet

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The National Planning Policy Framework and the Impact on the County Durham Plan

**Report of Corporate Management Team
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Purpose of the Report

1. This report summarises the key elements of the newly published final National Planning Policy Framework (NPPF). It also identifies the specific impacts on the County Durham Plan including changes to its structure and a new timetable, which will be set out in a revised Local Development Scheme. In addition, it sets out how the Council intends to deal with development proposals at this time of national change to planning policy

National Planning Policy Framework

2. The NPPF represents a fundamental reassessment of both the overall direction and the detail of the planning system in England, intended to support economic recovery and play a key role in delivering the government's localism agenda. The NPPF is the outcome of a review of planning policy, designed to consolidate policy statements, circulars and guidance documents into a single concise Framework (a reduction of over a thousand pages of guidance to around 50). The NPPF has been the subject of significant and prolonged public debate following consultation on a draft in the autumn of last year.

Key Elements of the Framework

3. The overriding message from the Framework is that planning authorities should plan positively for new development, and that 'planning should operate to encourage and not act as an impediment to sustainable growth'.
4. At the heart of the new system is a new 'presumption in favour of sustainable development'. This requires local plans to meet development needs and for development proposals that accord with the local plan to be approved without delay. The NPPF retains the presumption in favour of sustainable development that applies where local plan is absent, silent or out of date. This applies unless any adverse impacts of a development would 'significantly and demonstrably' outweigh the benefits. However, the final policy omits the reference from the draft version which proposed that decision takers should be required to assume that the default answer to development proposal is

'yes', except where this would compromise key sustainable development principles.

5. The government has also sought to define sustainable development more clearly, following widespread criticism that the draft NPPF was too vague in this area and left the definition too far open to interpretation. The document now refers explicitly to the five principles of the UK Sustainable Development Strategy as well as the UN Brundtland definition previously used.
6. The final NPPF also omits the reference from the draft version that required significant weight to be placed on the need to support economic growth. It now stresses that the economic, social and environmental roles are 'mutually dependent' and should be 'sought jointly and simultaneously through the planning system'. As a result, the final framework provides a better balance of economic, environmental and social needs.
7. The final NPPF also sets out some key policy changes from the draft. These include 'recognising the intrinsic character and beauty of the countryside', whether specifically designated or not, amongst 12 core planning principles which should 'underpin both plan-making and decision-taking'.
8. Also, unlike the draft, the final NPPF includes an explicit reference to 'brownfield' land, encouraging 'the effective use of land by re-using land that has been previously developed (brownfield land), provided that it is not of high environmental value'. It should be noted however that this does not appear to represent a 'brownfield first' policy, given that it is not accompanied by a sequential test requiring brownfield land should be used before greenfield.
9. The NPPF strengthens the protection of town centres following concerns that the earlier draft might lead to a dilution of the sequential test which requires proposals for out of centre development to demonstrate that there is no suitable alternative site centrally. The document states that planning authorities 'should require' applications for 'main town centre uses' to be in town centres. (The draft NPPF said authorities should only 'prefer' such applications 'where practical'). In instances where no suitable town centre site is available, the NPPF says out-of-centre sites 'that are well connected to the town centre' are to be preferred. The draft NPPF also removed offices from the uses planning authorities should prefer for town centre locations, referring only to retail and leisure uses. However, the final document emphasises the importance of the sequential test and includes office development in the 'main town centre uses' it would apply to. Significantly for rural economies, the NPPF also makes clear that 'small-scale' rural offices and developments are exempt from the town centre first policy.

Development Management

10. The NPPF requires local planning authorities to approach decision taking in a positive way and to support the delivery of sustainable development, seeking to approve applications for sustainable development wherever possible, attaching significant weight to the benefits of economic and housing growth,

and influencing development proposals to achieve quality outcomes. It also places emphasis on early engagement and pre-application discussions.

11. Local Planning Authorities are also advised to consider using Local Development Orders to relax planning controls for particular areas or categories of development and to take a proactive approach to the use of neighbourhood development orders and community right to build orders.

Neighbourhood Planning

12. Whilst establishing a presumption in favour of sustainable development, the NPPF also re-states the primacy of locally-led development plans. The Localism Act introduces rights for communities to prepare 'Neighbourhood Plans'. Together, Local plans and Neighbourhood Plans will form the Development Plan for an area. Some potential ambiguities do however remain on the relationship between the Neighbourhood Plan and the Council's Local Plan and these will need to be clarified as a programme for preparing neighbourhood plans is developed.

Evidence base

13. A new duty has been introduced to co-operate with neighbouring authorities on planning issues that cross administrative boundaries. The duty, in part, fills the vacuum caused by the abolition of the regional tier of government and represents a new 'test of soundness' to be applied when plans are submitted for Examination in Public. Arrangements have therefore been put in place to ensure regular and structured dialogue with neighbouring authorities, particularly in terms of housing market research where several authorities are known to be undertaking new research.
14. One of the overriding requirements of the NPPF is for local authorities to plan for additional housing supply. To achieve this, the NPPF requires planning authorities to identify and maintain a rolling supply of specific deliverable sites sufficient to provide five years worth of housing against their housing requirements, plus an additional buffer of five per cent to 'ensure choice and competition in the market for land'. The draft NPPF had proposed a blanket requirement for all local authorities to identify an additional 20 per cent of housing land. The County Council's response to the consultation on the draft requested that this automatic requirement should be dropped, on the basis that such a requirement to 'over-programme' in the supply of housing land would introduce the risk, over the longer term, of 'cherry picking' of the best sites at the expense of those that may be more strategically important. The final document omits this blanket requirement but states that councils that have a record of 'persistent under delivery on housing' must earmark a five-year supply plus 20 per cent. The NPPF justifies this on the basis that it will provide a 'realistic prospect of achieving the planned supply' as well as to ensure choice and competition for land. On the basis of evidence over time, County Durham has shown relatively strong performance in housing delivery and would not therefore expect the need to identify an additional 20 per cent above a rolling five-year supply.

15. The final NPPF also relaxes the stance on windfall sites (unforeseen housing sites), allowing local authorities to include such sites in their five-year supplies if there is compelling evidence that such sites 'consistently become available' and will be a 'reliable source of supply'. (The draft document had said that windfall sites could not be used unless there was 'compelling evidence of genuine local circumstances that prevent specific sites being identified'.)

Transitional Arrangements

16. The NPPF came into force immediately upon its publication. The NPPF, including the presumption in favour of sustainable development it sets out, applies to decisions on proposals with immediate effect in areas where no adopted local plan is in place. However, some transitional arrangements, albeit limited, are set out in Annex 1 of the Framework.
17. For the next 12 months, local authorities and inspectors can continue to give full weight to 'relevant' policies adopted since 2004 under the Planning and Compulsory Purchase Act 2004, even where there is a 'limited degree of conflict' with the NPPF. In County Durham all of our Local Plans and Mineral and Waste Plans were prepared under the previous Act, so none are covered by this 12 month 'window'. However, the arrangements also allow 'due weight' to be given to relevant policies in existing plans beyond this 12-month period, depending on their degree of consistency with the framework. This will inevitably be subject to interpretation. Given that the NPPF is now in force, as a matter of some urgency, we are now undertaking an exercise to determine which 'saved' local plan policies are consistent with the NPPF and can therefore continue to be used in decision making until the County Durham Plan is adopted.
18. The annex also states that decision-makers may also give weight to emerging local plan policies, according to the stage of preparation of the plan, the extent to which there are unresolved objections and the degree of consistency of policies with the NPPF.

Resources

19. It is clear that continuing resource pressures on councils may limit their capacity to move quickly in bringing forward local plans. This was accepted in the Government's own Impact Assessment which accompanied the draft NPPF. There are also concerns about how evidence gathering and data collection, essential for monitoring to support the decision making process, will be funded from limited and declining resources.

Conclusions on the NPPF

20. The NPPF represents a profound shift in the way that the planning system works and presents some real challenges for all those involved in designing and planning new development. The controversial nature of key proposals and in particular, the 'presumption in favour of sustainable development' has generated significant public debate nationally. Whilst the broad concept of a

slimmer National Planning Policy Framework and the scope to develop a more locally relevant policy context for County Durham is welcomed, with the Framework now in place, to some extent there remains some uncertainty about how the proposals will work in practice over the short and longer term.

Impact on the County Durham Plan

21. Development of the County Durham Plan is well advanced and its primary focus is to support the development of the local economy and an 'Altogether Wealthier Durham'. On the face of it, the Plan's focus on promoting economic development is therefore consistent with the NPPF's emphasis on sustainable growth and overcoming barriers to investment. However, the Plan seeks to achieve this by directing development to particular locations and bringing together employment, housing and services to create sustainable communities.
22. The NPPF states that each local authority should produce a Local Plan for its area which can be reviewed in whole or in part. Additional planning documents should only be used where justified. This is clearly different from the current Local Development Framework system with its suite of documents with an overarching Core Strategy. It does however, reiterate that planning should be genuinely 'plan led' when determining planning applications.
23. The inclusion of the presumption in favour of sustainable development, particularly in the absence of a comprehensive up to date development plan, could be a threat to the Council's ambition for a clear coherent development strategy as outlined in the Regeneration Statement and the emerging County Durham Plan. A Core Strategy on its own would only provide part of the answer as the biggest emerging challenge is coming from developers promoting speculative housing sites on the back of the NPPF. Therefore the best way to ensure that new housing supports the development strategy is to accelerate the preparation of the housing allocations.

Scope of the Local Plan

24. Given the Government's views of plan making were clear in the draft NPPF we have already taken steps to convert our Core Strategy into a Local Plan by adding the following elements:
 - Development Management Policies;
 - Employment Allocations;
 - Retail Allocations; and
 - Housing Allocations.
25. There are two areas of work which it is proposed should be in separate planning documents. These are Gypsy and Traveller Site Allocations and Minerals and Waste Allocations. Because of their controversial nature it is likely that their inclusion in a single Local Plan could unacceptably delay its preparation. In both cases there is no short term need for new sites, new Gypsy and Traveller proposals can be assessed against a new criteria based

policy in the Local Plan and there is sufficient minerals and waste sites to meet need for a number of years.

Timescales

26. Rather than discard all of the progress made to date and return to the beginning of plan preparation it is proposed that the next formal consultation stage will still be a Preferred Options document. It is considered that the additional areas of work required can be progressed straight to Preferred Options without having to have a formal issues and options stage.
27. Following the consultation on the Submission Draft minor amendments can be made before the Plan is formally submitted for consideration at an Examination in Public. The Gypsy and Traveller and Minerals and Waste documents would be progressed following adoption of the Local Plan.
28. The revised timescales result in the Preferred Options going to Cabinet in July and out for consultation in September 2012, primarily as a result of the work required for the housing allocations. In order to give sufficient time to consider the responses to the Preferred Options, which will likely include significant numbers of representations on proposed housing sites, both from developers wanting their sites including and from nearby residents, the Submission Draft of the Plan will go to Cabinet in May/June 2012 followed by publication and consultation. This will also ensure the document is not affected by the local elections.
29. Following consideration of the consultation responses following Publication and the making of any changes, the Plan will be formally submitted in the autumn of 2013 with the Public Examination to follow in spring 2014 and finally Adoption in July 2014.
30. The Gypsy and Traveller and the Minerals and Waste Allocations would go out to preferred options at the same time as Publication of the Local Plan. Publication would follow Adoption of the Local Plan with Examinations to following in May 2015 and Adoption, September 2015.

Dealing with Development Proposals in the Changing National Planning Policy Climate

31. As set out at paragraph 20, above, there is some uncertainty on how the proposals in the NPPF will work in practice over the short term. In particular we are faced with a situation, when considering development proposals, where Members will be taking decisions with reference to policies in Local Plans ranging from 8 to 16 years since adoption whilst also having regard to the new NPPF. At the heart of the NPPF is the presumption in favour of sustainable development. Where our Local Plans are out of date the Council is expected to grant permission for development unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole or, where specific policies in the NPPF indicate development should be restricted. In order to

create some consistency in dealing with such situations in the period when the County Durham Plan is in preparation, a paper setting out a recommended Council approach has been prepared – ‘Assessing Development Proposals in a changing National Planning System – Council Policy Position Statement’.

32. The County Durham Plan is at an early stage but at the same time, the Council’s Sustainable Community Strategy and Regeneration Statement set out that we are committed to raising the economic performance of the County. As such the Council needs to react to the development pressure we are coming under in the light of the changes to national planning policy in a way that does not jeopardise the evolution of the County Durham Plan, but at the same time allows some proposals, where Local Plans are out of date, to come forward now to help to deliver the Council’s growth agenda. Delivery of appropriate sites now, brings a number of benefits, notably in supporting the local economy by increasing economic activity and by delivering new housing (including affordable housing) at a time of economic difficulty.
33. The County Durham Plan is subject to public consultation and an Examination in Public which will resolve areas of disagreement. As such, care will be needed to ensure that decisions made ahead of the completion of the Plan do not prejudice the transparency of the Plan making process. Indeed, the starting point for assessing proposals remains Section 38(6) of the Planning and Compulsory Purchase Act of 2004, with the need to treat the Development Plan as the primary consideration. The Position Statement seeks to provide for a consistent approach to handling development proposals. It is not the intention that it constitutes an interim policy but rather that it enables consistency for the benefit of Members, Officers and Developers with reference to existing policy and the emerging policies and aspiration of the Council.
34. As set out earlier in this report an exercise is underway to assess the relevance of existing saved Local Plan policies in the light of the publication of the NPPF. That exercise will help to inform decisions but in the case of proposals that do not comply to existing policy but accord with the guidance in the NPPF the following factors will be assessed to see if this justifies approval:
 - a. Does the proposal meet the objectives of the emerging County Durham Plan and does it comply with the emerging spatial strategy?
 - b. Does the proposal deliver current needs or contribute to improved facilities in the locality?
 - c. Is there Community support
 - d. Is the proposal sustainable
35. It is intended that these factors can provide a consistent approach in this period of change.
36. The Council has taken legal advice on this issue and has been advised that as the Position Statement is an attempt to introduce consistency in decision making, it should be endorsed by Members as decision makers. In order

therefore to enable the Position Statement to be used Member sign off is required.

37. It should be noted that as the County Durham Plan progresses through the stages of preparation it has more weight in relation to determining planning applications. As a consequence the Position Statement will have less weight.

Recommendation

38. Members are asked to:
1. Note the key elements of the National Planning Policy Framework; and
 2. Agree the timescales and scope of the County Durham Plan as outlined in the report; and
 3. Endorse the Council Policy Position Statement as outlined in this report.

Background papers;

National Planning Policy Framework

Assessing Development Proposals in a changing National Planning system - Council Policy Position Statement

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Appendix 1: Implications

Finance –

Some savings will be made as a result of having a single Local Plan with fewer Examinations in Public.

Staffing –

The Planning Policy Team's work programme will be amended as a result of the changes to the timetable.

Risk –

The content of the NPPF could impact on our proposed strategy for the future of County Durham. However the strategy as outlined in past iterations of the County Durham Plan and the Regeneration Statement does broadly accord with the approach of the NPPF.

Equality and Diversity –

Equality and Diversity is an integral part of policy development in the County Durham Plan.

Accommodation –

None.

Crime and Disorder –

None.

Human Rights –

None.

Consultation –

The timings of the proposed consultation periods will change as a result of the amended Local Plan timetable.

Procurement –

None.

Disability Discrimination Act –

None.

Legal Implications –

The amended timetable reflects the requirements of the relevant regulations. The endorsement of the 'Assessing Development Proposals in a changing National Planning system - Council Policy Position Statement' has been requested as a consequence of legal advice.