

**Cabinet**

**12 October 2011**

**Draft National Planning Policy  
Framework**



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**Report of Corporate Management Team**

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### **Purpose of the Report**

1. This report summarises and comments upon the draft National Planning Policy Framework (NPPF) which has been published for consultation.

### **Background**

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 draft 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 draft NPPF has been the subject of significant and prolonged public debate over the last month, the outcome of which is still unclear. The consultation period is open until 17 October.

### **Key elements of the proposals**

3. The overriding message from the Framework is that planning authorities should plan positively for new development, and approve all individual proposals wherever possible.
4. At the heart of the new system is a new 'presumption in favour of sustainable development'. The Framework requires proposals for 'sustainable development' to be approved "unless the adverse impacts of allowing development would significantly and demonstrably outweigh the benefits". This clearly raises the bar for those seeking to resist development proposals for whatever reason. Much will therefore depend on the interpretation of what is considered to be 'sustainable development' when assessing individual development proposals.
5. The Framework proposes that planning permission should be granted where the development plan is "absent, silent, indeterminate, or where relevant policies are out of date" is very significant. In the short term, this raises issues

about how proposals are assessed in advance of the adoption of the County Durham Plan, and the continuing relevance of local plan policies that were 'saved' by the former Districts. In the longer term, after the County Durham Plan is adopted, issues will remain about whether any policies are up to date because the Framework defines 'up to date local plans' as being those which are consistent with the slimmed down national Framework.

## **The County Durham Plan**

6. 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. The provisions of the Framework could introduce the risk of unconstrained development contrary to the Plan's emerging spatial strategy, but difficult to resist when assessed against the provisions of the Framework.
7. Slimming down the national guidance in the context of the 'localism agenda' should provide greater scope for County Durham to develop a framework for new development which is more attuned to local needs and priorities rather than national priorities which can be framed to address the needs of the South East as opposed to the North East. However, it should be noted that the planning system is the subject of EU legislation and has been impacted by increasing numbers of Judicial Reviews and issues such as Village Green, in the absence of an up-to-date and adopted development plan, a slimming down framework of national guidance risks more development being determined by case law and appeals over the short to medium term until the Plan is adopted.
8. The overall focus of national policy on economic development reflects the approach of the Councils planning service to the development industry. The County Durham Plan is being developed to ensure the delivery of a steady supply of good quality development sites that are attractive to the market. Plenty of sites with planning permission, approximately 8000 homes with permission yet to be started, in Durham are already available to the market and more sites are being identified to ensure that a supply pipeline of attractive sites throughout the plan period. Whilst it is accepted that a streamlined planning system will be advantageous, the lack of mortgage availability, the reduced public subsidy which provided vital infrastructure and affordable housing within developments that provided confidence to developers and the reduced financial capacity of the development industry to deliver new development at the rate that was achieved before the credit crunch are the key reasons for the 'break in development' in County Durham to which the Government are trying to resolve.

## **Format of Local Plans**

9. The NPPF states that each LPA should produce a Local Plan for its area which can be reviewed in whole or in part, and that any additional Planning Documents should only be used where clearly justified. It reiterates that

planning should be genuinely 'plan led' when determining planning applications.

10. The current development programme for the preparation of the County Durham Plan would deliver a sequence of Development Plan Documents, starting with the 'Core Strategy' and followed by documents which set out land use allocations and the Development Management policies necessary to determine planning applications. Whilst the NPPF does not go so far as to require for the preparation of a single local plan document, it is clear that the Government intends that the vacuum created by the absence of a clear policy framework for County Durham would be filled by the 'presumption in favour of sustainable development'. The current programme and sequence of plan preparation is therefore being reassessed to minimise the period of uncertainty should the draft NPPF be adopted in its current form.

### **Development Management**

11. The NPPF states that the primary objective of development management is to "foster the delivery of sustainable development, not to hinder or prevent development". It requires local planning authorities to approach development management decisions positively, attach significant weight to the benefits of economic and housing growth, influence development proposals to achieve quality outcomes, and enable the delivery of sustainable development proposals. It also places emphasis on early engagement and pre-application discussions.
12. 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. Whilst the NPPF is a draft document issued for consultation, the Planning Inspectorate consider the 'direction of travel' to be clear that it should therefore be given 'weight' as a material consideration in determining planning applications.

### **Neighbourhood Planning**

13. The Localism Bill introduces rights for communities to prepare 'Neighbourhood Plans'. The Bill is not entirely clear on the relationship between the Neighbourhood Plan and the Council's Local Plan and the NPPF does not remove ambiguities with the risk of introducing some major areas of conflict between neighbourhood and local plans. The relationship between the presumption in favour of sustainable development and the primacy of locally-led development plans is also unclear.

### **Evidence base**

14. 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 dialogue with neighbouring authorities particularly in terms of

housing market research where several authorities are known to be undertaking new research.

15. To boost the supply of housing land, 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. The supply should include an additional allowance of at least 20 per cent to ensure choice and competition in the market for land. Once again, the presumption in favour of sustainable development would apply where land was not readily available. Whilst this requirement to 'over-programme' in the supply of housing land would appear to introduce the risk, over the longer term, of 'cherry picking' of the best sites at the expense of those that are more strategically important, this would appear to be a reasonable response to difficult market conditions at present.

## **Resources**

16. The accompanying Impact Assessment warns that "resource pressures" on councils may limit their capacity to move quickly in bringing forward local plans. 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**

17. The draft 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 Government's preferred 'direction of travel' is clear, there are many unanswered questions as to how the proposals will work in practice and whether the final framework will differ significantly from the draft now available for consultation.
18. 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 should be welcomed, serious concerns regarding the scope of the draft document remain, particularly :-
  - a) The definition of sustainable development is insufficiently precise to prevent inappropriate development
  - b) Whilst a new planning policy framework for County Durham is well advanced, County Durham would need some weight to be attached to the emerging plan, to prevent development taking place that would undermine the plan before the plan it was adopted. Effective transitional arrangements would help to fill any policy vacuum caused by the NPPF.
  - c) If significant development proposals are approved before the County Durham Plan is finalised (on sites identified through the plan making process), the Council may not secure sufficient Community

Infrastructure Levy to deliver the necessary infrastructure and local needs required to demonstrate that the plan is deliverable.

### **Recommendations and Reasons**

19. That the key issues outlined in this report form the basis of the Councils formal response to the draft National Planning Policy Framework.

### **Background papers**

Draft National Planning Policy Framework and Impact Assessment

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## **Appendix 1: Implications**

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**Finance –**

None.

**Staffing –**

None

**Equality and Diversity / Public Sector Equality Duty –**

None.

**Accommodation –**

None.

**Crime and Disorder –**

None.

**Human Rights –**

None.

**Consultation –**

None.

**Procurement –**

None.

**Disability Issues –**

None.

**Legal Implications –**

None.