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<b>REPORT TO:</b>	<b>ENVIRONMENTAL AND DEVELOPMENT SERVICES COMMITTEE</b>	<b>AGENDA ITEM: 10</b>
<b>DATE OF MEETING:</b>	<b>19<sup>th</sup> APRIL 2018</b>	<b>CATEGORY: DELEGATED</b>
<b>REPORT FROM:</b>	<b>STRATEGIC DIRECTOR (SERVICE DELIVERY)</b>	<b>OPEN PARAGRAPH NO:</b>
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<b>SUBJECT:</b>	<b>CONSULTATION ON DRAFT NATIONAL PLANNING POLICY FRAMEWORK</b>	<b>REF:</b>
<b>WARD(S) AFFECTED:</b>	<b>ALL</b>	<b>TERMS OF REFERENCE: EDS03</b>

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## **1.0 Recommendations**

- 1.1 That Members note the content of draft National Planning Policy Framework (NPPF) and related consultation documents summarised in this report
- 1.2 That Members authorise completion of the Consultation Survey being undertaken by the Ministry of Homes, Communities and Local Government (MHCLG – formerly DCLG) in order that the comments set out in the following report can be submitted to the Ministry as this Authority's Response in the appropriate format.

## **2.0 Purpose of Report**

- 2.1 To make Members aware of the proposed changes to the National Planning Policy Framework and supporting National Planning Policy Guidance.

## **3.0 Executive Summary**

- 3.1 The Government is currently consulting on proposals to update the National Planning Policy Framework (NPPF) and National Planning Policy Guidance (NPPG). This consultation follows on from the previous Housing White Paper: 'Fixing Our Broken Housing Market' (considered at this Committee in April 2017) and 'Planning for the Right Homes in the Right Places' (considered at Council in November 2017). Both consultations considered mechanisms to amend national planning policy with a view to improving the efficiency of the planning system and speeding up housing delivery.

## **4.0 Detail**

- 4.1 In 2012 the government introduced the National Planning Policy Framework (NPPF). However last year the Government consulted on a number of proposals to amend planning policy and legislation to speed up and increase housing delivery, support increased joint working, invest in infrastructure and generally improve the efficiency of the planning system in England.

- 4.2 The Council's previous responses to the Housing White Paper and Planning for the Right Homes in the Right Places are available to view on the Council's website or through the links provided in the background papers section of this report.
- 4.3 The draft NPPF seeks to deliver many of the proposals previously trailed in past consultations, as well as update the NPPF to reflect Written Ministerial Statements since its publication in 2012. The consultation proposals published by the MHCLG highlight the key changes to the NPPF and includes a series of 43 questions regarding the scope and detail of the changes proposed. The remainder of this section will flag key changes which are of relevance to South Derbyshire which are proposed to be submitted to MHCLG as this authority's response.

#### **Presumption in Favour of Sustainable Development**

- 4.4 A revised presumption in favour of sustainable development has been included in the framework which requires that 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.

#### **Comment in respect of presumption in favour of sustainable development (Q2)**

- 4.5 The changes made to the presumption in favour of sustainable development clarifies that strategic plans "*should, as a minimum provide for objectively assessed need for housing and other development, as well as any needs that cannot be met in neighbouring areas*". In contrast the current text of the NPPF states that "*Local Planning Authorities should positively seek opportunities to meet the development needs of their area*". The new wording clearly places an increased onus on adjacent authorities to cooperate in the delivery of new development by articulating this in the presumption. Whilst existing policy has been used to support joint working in the Derby HMA, in many locations planning for the accommodation of unmet needs has been problematic. Broadly the certainty that these changes offer should be welcomed although this change, together with other changes to the framework could increase the need for greater cooperation and joint working with adjoining authorities.

#### **Chapter 3 Plan-making**

- 4.6 This section of the NPPF has been moved towards the front of the document and the text updated largely to reflect previous consultation proposals as follows:

##### **Housing White Paper**

- A new plan making framework which defines strategic priorities and allows authorities to plan in the most appropriate way (i.e. by working together or independently to produce a joint or individual plan).
- Amendments to the 'test' for a sound plan to make it clear that the plan should set out an appropriate strategy under the 'justified' test rather than the 'most appropriate strategy' as present.
- Tightening the evidence which is expected in respect of strategic and local policies to support a 'sound' plan to allow for a more proportionate approach to plan-making
- Introducing an expectation that plans should use digital tools to assist consultation and presentation of policies.

## **Planning For the Right Homes in the Right Places**

- Setting out that to meet the test of soundness Authorities would need to work with neighbouring Authorities to produce and maintain a 'Statement of Common Ground' as part of the existing statutory Duty to Cooperate.
- Strengthening the 'effective' test to emphasise the need for effective joint working to ensure strategic decisions are taken rather than deferred.
- A new approach to viability, through which plans are expected to be clear about the contributions expected in association with development to provide greater certainty about what infrastructure and mix of housing would be delivered by proposed schemes.
- A new requirement for Authorities to review plan policies every five years following the date of adoption, with updates if necessary.

## **Comments In respect of Chapter 3 Plan-making**

- 4.7 Many of the changes set out in the Plan-making section of the Draft NPPF have previously been trailed and consulted up (as explained earlier) and comments made through previous consultations have been taken into account in preparing the draft framework. In particular it should be noted that the requirement to review plans every 5 years from adoption is a legal requirement which will come into force on 6<sup>th</sup> April 2018 when changes to the Town and Country Planning (Local Planning) (England) Regulations 2012 take effect. The Neighbourhood Planning Act 2017 further requires that Authorities consider whether to revise a Plan following such a review and where no review is proposed publish the reasons for not doing so.
- 4.8 Clearly the review exercise would ensure that Plans remain current and fit for purpose in respect of delivering the development communities require. However this review could represent an additional resource burden to the Authority. Local plan making has always been a continuing process of updating Plans in response to local needs but setting a fixed time in which to undertake a review, and where necessary commence work to alter or replace the Plan would potentially require the Authority to engage in the process earlier than it might otherwise choose to. However it should be noted that a review does not necessarily lead to a requirement to replace the Plan and could effectively consist of an audit and preparation of a document explaining the results of the review and the reasons for any updates or not, or for only updating specific parts of the Plan.
- 4.9 In respect of proposals trailed within the Housing White Paper and Planning for the right homes in the right places, it is clear that many of the amendments proposed to the plan-making section of the Framework seek to emphasise the need for, and support approaches towards, greater joint working, particularly to deliver strategic level planning. For example the requirement to produce and maintain a 'Statement of Common Ground' as part of the existing statutory Duty to Cooperate and changes to the 'effective' test to emphasise the need for effective joint working to ensure strategic decisions are taken rather than deferred, would push Authorities towards addressing strategic matters such as how unmet housing need or high level infrastructure can be delivered early on in the plan-making process. Such an approach would support Authorities to demonstrate compliance of the Duty to Cooperate during plan examination and build greater transparency on how decisions have been reached. However, it could have potential resource implications and could be seen to be turning the duty to cooperate into a duty to agree. In practical terms however, the Derby HMA Authorities worked proactively and constructively during previous Local Plan work and were able to reach agreements on how to address strategic issues such as the delivery of key infrastructure and how best to

distribute the City's unmet need. Where such relationships continue the additional burdens set out in the framework would be largely mitigated.

- 4.10 A number of changes consider the use of evidence. Proposals to support the more 'proportionate' collection of evidence would have mixed effects as in some instances it could reduce the burden of evidence collection on the Authority, but in other instances maintain the status quo or significantly increase the body of evidence needed to support plan-making. A standard approach to assessing housing needs (previously considered in the Planning for the right homes consultation) would be taken forward which could provide an easily derived figure in respect of overall housing need in the District and at the HMA level. Officers in the Council's strategic housing section and planning team welcome the introduction of the standardised methodology for the calculation of housing need as it will bring certainty to the headline housing need for South Derbyshire. Although identifying specific housing needs such as that for older people, or people with disabilities is still likely to be gathered through a strategic housing market assessment. It is unlikely that a standard approach to evidence gathering would reduce the survey effort needed to identify local housing needs, so cost savings and reduction in evidence previously identified by Government are unlikely to be achieved in this area of work.
- 4.11 Proposals in respect of viability outlined would likely increase the burden of evidence collection on the Authority, particularly where site specific viability assessments are required on strategic sites that provide a significant proportion of planned supply or unlock other development sites. Moreover the Draft NPPF is very clear that ordinarily there should be no need to look again viability during the planning application process. This requirement is likely to further shift the burden of evidence gathering onto the LPA who would need to look at viability in more detail than is currently the case during plan preparation whilst reducing the burden on developers during the planning application process. In addition to the potential cost implications to the Authority associated with undertaking more comprehensive evidence gathering in respect of viability, it is also likely that undertaking a single viability assessment at the plan making stage would fail to track changes in land or property values, build costs, borrowing rates or prevailing economic conditions. In this context it is likely that review mechanisms to allow amendments to contributions would be required to reflect the fact that viability work would have been undertaken in many instances a significant number of years before the site gains planning consent. Again such reviews could have potential resource implications for the Authority.
- 4.12 Amendments regarding soundness to make it clear that the plan should set out 'an appropriate strategy' rather than the 'most appropriate strategy' could reduce the overall burden of evidence on Authorities as it effectively sets a lower bar for compliance with the 'justified' test. Similarly the draft NPPF indicates that the preparation and review of local policies should be underpinned by proportionate, relevant and up to date evidence focused on supporting and justifying the policies concerned. This could reduce the evidence burden of preparing plans focussed on local, rather than strategic policies.
- 4.13 Finally in respect of the plan-making chapter it is worth noting the Framework introduces an expectation that plans should use digital tools to assist consultation and presentation of policies. A significant proportion of consultees in the District are unable, or do not want to use digital tools to access planning materials. And whilst and drive to increase access to online mapping and consultation tools should be welcomed, this is likely to have wider resource ramifications given the lack of IT capacity or resources to deliver such materials currently.

## **Chapter 4 Decision-making**

4.14 This section of the Draft NPPF provides guidance on pre-application engagement; determining applications; the use of planning controls; planning conditions and obligations and enforcement. The draft framework is largely unchanged in respect of guidance on pre-application engagement, the use of planning controls and enforcement. It does however include further text in respect of determining applications. This considers the potential weight to be assigned to policy included in emerging plans as well as identifies the limited circumstances where prematurity could justify refusal of a development scheme. There are also limited changes to the section on planning conditions and obligations. In particular a newly inserted paragraph 58 takes forward reforms to viability assessment proposed in Planning for the right homes in the right places and makes clear that where a proposed development accords with the relevant policies in the Plan there is no need for a viability assessment to accompany a planning application.

### **Comment on Section 4 Decision-making. (Q10).**

4.15 This section of the draft document has not been subject to significant change. Nonetheless further guidance on the weight attributable to emerging policy (now included in the text of the document rather than annex 1) and the inclusion of policy on prematurity in the Framework (rather the NPPG) is considered generally beneficial.

## **Chapter 5: Delivering a wide choice of high quality homes**

4.16 Again this section of the Draft NPPF seeks to implement many of the proposals previously trailed in the Housing White Paper and Planning for the right homes in the right places. For example Chapter 5: Delivering a sufficient supply of homes:

- Introduces the new standard methodology for the calculation of housing need. The detail of which is set out in the NPPG;
- Makes it clear that there should be clear policies in plans for addressing the housing requirements of groups with particular needs;
- Outlines the requirement for plans to specify the type of affordable housing required and require it to ordinarily be met on site;
- Specifies that affordable housing should only be required for major sites (except where in designated rural areas where policy sets a lower threshold of 5 units or fewer) and where appropriate reduce affordable housing provision sought on previously developed sites;
- Requires that at least 10% of homes on major sites be available for affordable home ownership;
- Introduces an expectation that local authorities should provide a housing requirement figure for designated neighbourhood areas, or where this is not possible set out an indicative housing requirement figure if requested to do so by the neighbourhood planning body;
- Takes forward the Housing White Paper proposals to encourage the greater use of small sites to help diversify opportunity for builders, (although the government is seeking views on this aspect of policy);
- Introduces a new Housing Delivery Test, which would invoke the presumption in favour of sustainable development and where housing delivery is less than 75% of the requirement (as announced as part of Budget 2017), requires a 20% buffer on the Authority's 5 year land supply if delivery falls below 85%, and triggers the publication of an action plan if housing delivery falls below 95%;
- Introduces support for the delivery of entry level exception sites suitable for first time buyers or those looking to rent their first home on land not already allocated for housing.

#### **Comment on Chapter 5: Delivering a wide choice of high quality homes**

- 4.17 As comments have previously been made by this Authority in previous responses to DCLG, comments are limited to the greater use of small sites where further comments are sought by government; the potential ramifications of the Housing Delivery Test in light of publication of further information on the test the proposed development of entry level exception sites which was first announced through Budget 2017 and the proposed change to the definition of affordable housing included in Annex 2 of the Draft NPPF.
- 4.18 Firstly in respect of small sites, Q11 of the Draft NPPF Consultation proposals ask for further responses in respect of the most appropriate combination of policy requirements to ensure that a suitable proportion of land for homes comes forward on small or medium sized sites. Previously the Budget 2017 suggested that 20% of sites allocated in plans should be of half a hectare or less. To put this into context for South Derbyshire, of the 32 sites allocated to meet the Districts housing requirement, only one site was of half a hectare or less. To comply with the proposed requirement the Local Plan would have likely required the allocation of a further 6 small sites which would have delivered of the order of 60-90 homes. This is not significant to delivery in the context of the District's housing requirement but together with other small sites that come forward within the Plan period on windfalls sites, brownfield sites, non-allocated sites within settlement boundaries or small scale exceptions or cross subsidy sites allowed for in the Plan, would contribute towards ensuring a constant stream of smaller sites which are available to local builders. Moreover set at this level of requirement, the allocation of a limited number of smaller sites in any future local plans would be unlikely to represent a notable burden on the Authority. However it is unclear from the guidance whether the requirement would only apply to non-strategic plans or not. Clearly where an authority brings forward a strategic plan with a limited number of very large sites to meet strategic needs, it would be odd to include a small number of very small non-strategic sites. Any requirements to deliver such housing should instead be mandated to be delivered through subsequent local non-strategic plans dealing with local need.
- 4.19 In respect of the Housing Delivery Test (HDT), this was previously proposed as part of the Housing White Paper consultation and adjusted through the Budget 2017. This Authority did not object to the principle of such a test being introduced in its response to the White Paper, but had concerns regarding the timing of implementation. Due to delays in publishing the Draft NPPF, the HDT would now be implemented in November 2018 and cover housing delivery in the period 2015/16 – 2017/18 rather than a three year period ending in 2016/17. This slight delay has allowed the Authority opportunity to commit more homes through the plan making process and work with developers to increase delivery. This is important because performance against the test decides the sanctions that may be placed on local authorities where housing delivery is not keeping up with requirements (see 4.16 above).
- 4.20 In reality these sanctions should not apply to South Derbyshire. Based on a housing requirement of 742 dwelling per year over three years, the District would be required to deliver 2,227 homes. When assessed against delivery in 2015/16, 2016/17 and 2017/18 (which is yet to be confirmed) one would expect delivery to be around 2,280 homes, equivalent to 102.4% of the annualised plan requirement over that period. Moreover due to the relatively recent adoption of the Local Plan and taking account of recent starts on a number of additional medium and large sites, it

is likely that delivery will continue to be ahead of the annualised requirement set out in the Plan for the foreseeable future. However, a significant downturn in delivery, for example as a result of a deterioration in the economy, or a change to housing need locally, could mean that the test could eventually bite and clearly the preparation of actions plans, the need to apply a 20% buffer to the Council's five year land supply, or the automatic triggering of the presumption could impact on Council resources and/or leave the Council in a position where speculative planning proposals need to be viewed favourably in order to address under delivery at some time in the future.

- 4.21 It is also worth noting that the government 'floated' proposals in the local government finance consultation in September 2017 on a 'New Homes Bonus revision'. This set out proposals to link payments of the New Homes Bonus to the Housing Delivery Test. Further proposals would need to be subject to further consultation prior to the proposed implementation in 2019/20. Again, should housing delivery dip below the Plan requirement within the plan period to 2028 (and subject to the implementation of these proposals), the Housing Delivery Test could have implications for Council funding in the future.
- 4.22 The Draft NPPF also includes support for entry level housing for first time buyers or renters. Such sites would be outside settlements and not allocated in the Local Plan. However, having reviewed the text it shares some synergies with policy H21 of the Adopted Part 1 Local Plan which already makes provision for exception and cross subsidy sites on the edge of settlements. However as currently drafted, the NPPF policy requires a high proportion of homes to be offered for discounted sale or affordable rent. It is unclear whether the term high proportion is analogous with the requirement in the Council's policy for ensuring that a majority of homes on a cross subsidy site be affordable, or even if the types of homes to be discounted would be classed as affordable although it is noted that the draft NPPF does include a proposed definition of affordable housing at annex 2 which would include starter homes and discounted market housing.
- 4.23 From a Strategic Housing perspective it will become increasingly difficult for Local Authorities to meet identified need for affordable rented homes for those who cannot access any type of market solution. As the definition of affordable housing is extended to include discount market sale and starter homes alongside the requirement to provide at least 10% affordable home ownership (of the total 30% for SDDC) on each site, the Council will see a reduction in the overall number of rented units handed over from developers as the rented element becomes more marginalised within the s106 / planning conditions.
- 4.24 Considering the increased population predictions for the district, the Council will inevitably find it much harder to meet both newly arising need for affordable housing and their statutory obligations towards homeless households in the district. The Council will therefore become more reliant on partnership working with our Registered Providers and utilising its own resources to pro-actively increase the affordable rented supply.
- 4.25 Moreover, whilst there is some detail on identifying the needs for different types of housing included in the NPPG, it is totally silent on how to calculate whether the need for starter homes is being adequately met. Clearly there is merit in allowing exceptions to normal policy for the delivery of truly affordable housing where this meets a defined local need. However the guidance in both the NPPF and NPPG should be tightened up to provide further clarity on how to identify any local needs

associated with this type of provision. Finally in respect of changes to affordable housing policy Members should note that based on currently proposed guidance and updated definition of 'affordable housing' it is likely that the planning balance would be tilted in favour of developers and that exception sites (those outside of settlements in the countryside) would be more likely to come forward and conform with national and local policy including for schemes that offer relatively limited benefits in respect of delivering genuinely affordable homes. In short policy revisions could open the door for small scale development outside of existing settlements where they deliver a high proportion of homes defined by the government as affordable.

### **Chapter 11: Making Effective use of Land**

- 4.26 This section of the Draft NPPF seeks to make more intensive use of land and existing buildings where it could meet housing need. In particular this chapter of the framework:
- Seeks to provide guidance to ensure that the building of homes at low densities is avoided in areas of high demand and pursue higher density housing in accessible locations;
  - Consider using minimum density standards (or a range of density standards) that reflect local accessibility;
  - Supports the conversion of underutilised land and buildings, including on car parks, service yards and railway infrastructure;
  - Supports opportunities for using 'airspace' above existing residential and commercial premises for new homes.

### **Comment on Chapter 11: Making Effective Use of Land (Q26)**

- 4.27 The policy changes seek to deliver a 'significant uplift' in the average density of residential development in urban areas or those locations well served by public transport and could, in the long-term, increase the potential for urban areas such as Derby City to meet more of its own need and could therefore reduce the level of unmet need to be accommodated elsewhere in the housing market area including South Derbyshire. However this policy could also push up densities in more urban parts of South Derbyshire. It should be noted however, that the draft policy emphasises the need to take account of the availability and capacity of Infrastructure, the desirability of maintaining an area's prevailing character (including residential gardens) and the importance of securing well-designed attractive places. On this basis, and having regard to the fact that the District is not capacity capped in respect of the level of housing that can be delivered (unlike Derby City) there is not a shortage of land to meet identified housing needs and so it is likely that policy changes would have only a limited effect on the District.

### **Chapter 13 Protecting Green Belt Land**

- 4.28 The Draft framework requires that planning authorities must fully examine "*all other reasonable options*" for meeting their identified development needs before releasing Green Belt and retains current guidance that boundaries should only be altered in exceptional circumstances. It also includes policy to support the greater use of brownfield land for housing in the Green Belt and clarifies that burial grounds, allotments and rural exception (housing) sites are not inappropriate development.

### **Comment on Chapter 13 Protecting Green Belt Land.**

- 4.29 This is generally a notable tightening of Green Belt protection where changes are sought to Green Belt boundaries, through the local plan-making process. The draft framework would require local authorities to fully examine other reasonable options for accommodating growth including increasing densities, or demonstrating



that housing needs could not be met elsewhere including in neighbouring authority areas. However the clarifications that allotments, burial grounds, rural exceptions sites and the reuse of brownfield sites for housing (where these do not cause 'substantial' harm to the openness of the Green Belt) would weaken the level of protection afforded to Green Belt in respect of these types of development. The extent of Green Belt in South Derbyshire is relatively limited (around 13% of the District) and on this basis changes would be unlikely to have significant effect on the District.

- 4.30 Whilst this report highlights the key changes proposed to national planning policy proposed through the NPPF and NPPG it should be noted that it is not definitive and other changes not covered in the report could have ramifications to the settlements and communities of South Derbyshire. In the interest of brevity only the key changes have been considered in this report. However should Members want to look at the reports in greater detail a link to the National Planning Policy Framework: Consultation proposals can be found in section 8 of this report.

## **5.0 Financial Implications**

- 5.1 As set out in this report.

## **6.0 Corporate Implications**

- 6.1 Changes to the Draft NPPF and NPPG are likely to support increased delivery of homes and infrastructure which and could support the delivery of aims included in the Council's Corporate plan which seeks to Facilitate and deliver a range of integrated and sustainable housing and community infrastructure.

## **7.0 Community Implications**

- 7.1 The Draft policy proposals will support the Sustainable Development theme included in the South Derbyshire Community Strategy 2009-29. In particular the Draft NPPF supports the delivery of economic growth and the delivery of green infrastructure in the District.

## **8.0 Background Papers**

- 8.1 [Report to Council](#): 2<sup>nd</sup> November 2017 (Item 12): Planning for the right homes in the right places: Consultation Proposals
- 8.2 [Report to EDS Committee](#): 26 April 2017 (Item 10): Housing White Paper Consultation
- 8.3 [National Planning Policy Framework: Consultation proposals](#), March 2018, MHCLG
- 8.4 National Planning Policy Framework: Draft text for consultation, March 2018, MHCLG
- 8.5 Draft Planning Practice Guidance, March 2018, MHCLG
- 8.6 Draft Planning Practice Guidance for Viability, 2018, MHCLG
- 8.7 Housing Delivery Test: Draft measurement rule book
- 8.8 [Autumn Budget 2017](#)