

National Planning Policy Framework – Consultation on proposed changes

Summary: This report provides an explanation and summary of the proposed key changes to the National Planning Policy Framework and seeks to agree responses to a current consultation on these proposed changes.

Recommendations: **Members of the Planning Policy & Built Heritage Working Party recommend to Cabinet that the Authority respond to the consultation as outlined in this report.**

Cabinet Member(s) Cllr Andrew Brown	Ward(s) affected All
All Members	All Wards
Contact Officer, telephone number and email: Mark Ashwell, Planning Policy and CDL Manager, 01263 516325 Mark.ashwell@north-norfolk.gov.uk	

1. Introduction

1.1 Government has published a prospectus for proposed changes to the NPPF and is seeking views by the beginning of March. The consultation seeks views on the proposed approach to updating to the National Planning Policy Framework. A fuller review of the Framework will be required in due course, and its content will depend on the implementation of the government’s proposals for wider changes to the planning system, including those in the Levelling-up and Regeneration Bill.

1.2 Consultation responses are encouraged on-line via the completion of a questionnaire.

1.3 The main areas of proposed changes are outlined below together with officer views and suggested draft responses (*italics*).

2. Proposed changes and commentary/recommendations.

The government says it will review the implications for the standard method of new household projections data based on the 2021 Census, which is due to be published in 2024. It is not proposing any changes to the standard method formula itself through the consultation.

This is disappointing. It means that the current formula used to establish the need for new homes which is derived from the 2014 based National Household Projections is retained until at least 2024 when the final results of the 2021 Census are due for publication.

However, it is proposed that the NPPF should be amended to describe the standard method formula as an advisory starting point rather than the current language, which requires the use of the standard approach other than in 'exceptional circumstances'. This softening of position arguably gives authorities more scope to make the case for departures from the standard methodology although it should be noted that the reasons for such departures will still need to be evidenced and will be scrutinised at Plan examinations. Indeed, the government's Chief Planner has recently stated that departures from the methodology should still only happen in exceptional circumstances. It also remains the case that Plans should provide for all needs, with need determined through robust evidence.

North Norfolk does not currently follow the standard methodology to establish housing need in the District and relies on an argument that errors in the 2014 based Household Projections are of such a magnitude that they constitute 'exceptional circumstances' which justify the use of the more recent 2016 based projections. In order to be successful in defending its approach the Council currently needs to show why it considers that 'exceptional circumstances' should apply in North Norfolk. This is a high bar and is contested at appeals particularly as current national guidance provides no indication in relation to what might constitute acceptable reasons for departures. The 2014 based projections are now increasingly old and were only retained by government to provide certainty whilst alternatives were considered. It is regrettable that government has not taken the opportunity to modify the methodology to allow for the consideration of later national projections which are widely regarded as more accurately reflecting likely future need.

Assuming this change is retained following the current consultation, government intends to modify the Framework in the Spring of 2023. It is assumed that Plans which are being examined after publication of the revised Framework, which would include North Norfolk's Plan, would be considered against the revised Framework wording when applying the 'conformity with national policy' soundness test.

Suggested response – *that NNDC supports the proposed modification, would welcome further guidance on grounds for using different approaches but would object if such guidance was to prevent local considerations being taken into account.*

2 More explicit indications will be given in planning guidance (not published) of the types of local characteristics which may justify the use of an alternative method of assessing housing need, the document says. *Examples could include islands with a high percentage of elderly residents, or university towns with an above-average proportion of students.*

It would be helpful if government were to provide clear guidance in relation to what might constitute grounds for departing from the standard methodology.

However, any advice would best be expressed in terms of examples rather than a specific closed list of reasons. It should remain the case that each LPA should be able to present evidence and reasons why they think an alternative approach is justified at a local level.

It is regrettable that government has not, at this stage, given firm indications as to what factors might constitute grounds for departing from the standard methodology, although the consultation seeks views on what might be included.

Suggested Response – *would welcome greater guidance and clarity but would object if such guidance did not allow for local factors to be taken into account when setting housing requirements.*

3 The need to avoid development that would be uncharacteristically dense for the area can outweigh the requirement to meet local housing need, the draft NPPF revision says. This calculation should be made taking into account the principles in local design guides or codes, the document says.

This measure is more likely to be applicable to urban areas which will often face high levels of need and little space to address that need other than by building at higher densities.

Suggested response – *no comment*

4 Authorities would not need to review their green belts, even if meeting housing need would be impossible without such a review. A draft NPPF revision is intended to make clear that local planning authorities are not required to review and alter Green Belt boundaries if this would be the only way of meeting need in full.

Not applicable in North Norfolk as there is no Green Belt in the District.

5 Councils would be able to take past over-delivery of housing into account when assessing housing need. The draft NPPF is intended to make clear that, if permissions that have been granted exceed the provision made in the existing plan, that surplus may be deducted from what needs to be provided in the new plan.

This is a welcome change as up to now an Authority which provides more housing than is needed in the early years of a counting period (Plan period or five-year supply period) has not been able to deduct the 'over-delivery' in previous years from its future requirement.

Suggest Response – *support proposal*

6 The test of 'soundness' for local plans is to be softened. The draft NPPF revisions say that plans will no longer be required to be 'justified'.

Instead, the examination would assess whether the local planning authority's proposed target meets need so far as possible, takes into account other policies in the Framework, and will be effective and deliverable, the consultation says. For the purposes of the changes to the test of soundness, the government proposes "that these will not apply to plans that have reached pre-submission consultation stage, plans that reach that stage within three months of the introduction of this policy change, or plans that have been submitted for independent examination". Such plans would be examined under the current tests.

This would mean that North Norfolk's Plan would continue to be examined under the current soundness tests, would need to be 'justified' and despite proposals below (No.8), would continue to need to discharge the legal Duty to Co-operate.

This appears to be a somewhat illogical transitional process with government saying on the one hand that it recognises that the current legal and soundness tests are too onerous but on the other proposing to retain these for Plans already in preparation. Officers are supportive of the proposed modifications which would significantly ease the process of Local Plan examinations whilst ensuring that Plans remain effective and deliverable. These changes could be introduced with immediate effect and therefore be beneficial to the many Plans already in production.

Suggested response – *support the proposal but would encourage implementation for all those Plans already in production rather than delaying until new Plans are prepared.*

7 The government intends to retain the uplift of 35 per cent to the assessed housing need for the 20 largest towns and cities in England. The draft NPPF revisions would require that this uplift is, "so far as possible", met by the towns and cities concerned rather than exported to surrounding areas, except where there is voluntary cross-boundary agreement to do so.

This provision does not relate to North Norfolk.

8 The duty to co-operate is to be replaced with an as-yet-unformulated "alignment policy". The duty will remain in place until those provisions come into effect, the document says, and "further consultation on what should constitute the alignment policy will be undertaken".

Suggested response – *Support this proposal as the legal duty has resulted in the unnecessary failure of Plans when a broader 'alignment' or conformity test would have been sufficient.*

9 Some authorities with emerging local plans will benefit from a reduced housing land supply requirement. For the purposes of decision-making, where emerging local plans have been submitted for examination or where they have been subject to a Regulation 18 or 19 consultation which included

both a policies map and proposed allocations towards meeting housing need, those authorities will benefit from a reduced housing land supply requirement, the consultation says. This will be a requirement to demonstrate a four-year supply of land for housing, instead of the usual five. These arrangements would apply for a period of two years from the point that these changes to the Framework take effect, the document adds.

Suggested response – Support the proposal. This is a sensible proposal which takes account of the likelihood that over the transitional period some Plans will be reconsidered and potentially delayed and that during that period it would be reasonable to reduce expectations around maintaining a five year land supply.

CHANGES TO THE HOUSING DELIVERY TEST AND FIVE YEAR HOUSING LAND SUPPLY TEST

10 Authorities with an up-to-date local plan will no longer need to continually show a deliverable five-year housing land supply. In this case, “up-to-date” means where the housing requirement as set out in strategic policies is less than five years old, the document says. The government proposes the change to take effect when it publishes the revised National Planning Policy Framework, “expected in Spring 2023”.

This is a welcome change but is likely to shift the emphasis on to the Local Plan examination with developers and the Inspector scrutinising the first five years of the Plan to ensure it includes sufficient growth.

11 Councils would no longer have to provide five-year housing land supply buffers

This would be a welcome change as up to now in addition to showing a continuous five year supply of land authorities have needed to apply further delivery buffers of 5,10 or 20% depending on local circumstances. Similar buffers are also often required in Local Plan preparation.

12 Local planning authorities would be allowed to include historic oversupply in their five-year housing land supply calculations. This would be implemented by amending the Framework and planning practice guidance, the document says.

This is a similar provision to that outlined at No.5 above but relates explicitly to Five Year Land Supply requirements rather than when establishing a housing target in a Local Plan. This would mean that ‘over-delivery’ in previous years could be deducted from future year’s requirements.

13 Evidence of sufficient deliverable permissions could save councils from the most severe Housing Delivery Test sanction. The document proposes to add to the test an additional permissions-based test. This will ‘switch off’ the application of ‘the presumption in favour of sustainable development’ as a consequence of under-delivery, where a local planning

authority can show sufficient permissions for enough deliverable homes to meet their own annual housing requirement or, where lacking an up-to-date plan, local housing need, plus an additional contingency based on the number of planning permissions that are not likely to be progressed or are revised (which the government proposes defining as 115 per cent of the housing requirement or local housing need).

Again this is a welcome change meaning that ‘permissions granted’, rather than ‘dwellings built’, would be used as a performance measure when deciding if the penalties of failing to meet the Housing Delivery Test are applied.

MEASURES TO TACKLE SLOW BUILD-OUT OF PERMISSIONS

15 Past “irresponsible planning behaviour” by applicants could in future be taken into account when applications are being determined. As examples of such applicant behaviour, the document cites “persistently breaching planning controls or failing to deliver their legal commitments to the community”. Primary legislation would be needed to enact such measures, on which the government is seeking views, the document states.

16 Government data will be published on developers of sites over a certain size who fail to build out according to their commitments. This, like the measures mentioned in points 17 and 18, will be introduced via changes to national planning policy following the passage of the Levelling Up Bill, the document says.

17 Developers will be required to explain how they propose to increase the diversity of housing tenures to maximise a development scheme’s absorption rate (which is the rate at which homes are sold or occupied).

18 Delivery will become a material consideration in planning applications. “This could mean that applications with trajectories that propose a slow delivery rate may be refused in certain circumstances,” the document says.

19 A financial penalty for developers that are building out too slowly will be consulted on separately, the document says.

Suggested responses – *That the Authority is supportive of all measures designed to increase delivery rates and reduce land banking and failure to deliver on commitments*

ONSHORE WIND DEVELOPMENT/ENERGY EFFICIENCY

20 Onshore wind power schemes would in future be able to go ahead on sites that have not been designated in the local plan. The government says its proposed changes to the existing NPPF footnote 54 will ensure that

“local authorities have a range of routes to demonstrate their support for certain areas in their boundaries to be suitable for onshore wind”

Commentary: Footnote 54 (63 in revised version) would now allow LPA's to identify an area suitable for on shore wind energy development through an SPD with a supporting renewable policy, as well as through a development plan. Proposed rewording would also see demonstration of planning impacts identified by a local community to have been 'satisfactorily', rather than 'fully' addressed and that the proposal has 'community support', rather than 'their backing'.

Local implications: The changes will not be relevant where a LPA has already submitted it's Reg 19 plan (see Appendix 1 NPPF consultation version, new para. 225) and so this will not be relevant to NNDC's emerging local plan. Potential changes: Policy CC2 at criterion 3 uses the word 'fully' as a nod to footnote 54 and so we may wish to amend this to 'satisfactorily', to better align wording and which would also helpfully soften the current high bar of this requirement. Para. 3.2.8 would also require a consequential change in this regard.

Council response: Although this matter would not be relevant to the Council's emerging plan, the principle of the changes would be supported.

21 Replacing the old turbines with more powerful and efficient models will be made easier. Changes to paragraphs 155 and 158 of the existing NPPF will enable the re-powering of renewable and low carbon energy schemes where planning permission is needed, and providing that the impacts of any development proposal are or can be made acceptable in planning terms, the document says.

Commentary: New Paras. 157 (new reference to future repowering and maintenance of suitable energy development) and 160 part c) 'approve an application for the repowering and life-extension of existing renewables sites, where its impacts are or can be made acceptable. The impacts of repowered and life-extended sites should be considered for the purposes of this policy from the baseline existing on the site.'

Local implications and potential changes: Policy CC2 and supporting text are silent about repowering and life-extension of existing renewables sites and, given the known sensitivity of recent onshore wind energy applications, we may wish to add a sentence to the supporting text to pick up on this matter, particularly as the new criterion c) highlights that such a proposal 'should be considered from the existing baseline on the site' (see below).

Council response: support.

22 The NPPF will be amended with a new paragraph 161 to give “significant weight” to the importance of energy efficiency through

adaptation of buildings. But the document says that this will be done in a way that ensures that local amenity and heritage continues to be protected.

Commentary: the new para. 161 makes specific reference to large non-domestic buildings, but would apply to any such adaptations that are not covered by PD rights.

Local implications: Support for the adaptation of buildings with renewable technology is mentioned within criterion 2 of Policy CC2, but the new para 161 seeks to attach significant weight to the benefits of such energy efficiency adaptations, while also caveating that 'proposals affecting conservation areas and listed buildings should also take into account' the policies in Chapter 16: Conserving and enhancing the historic environment.

Potential changes: No amendments considered necessary to the policy, but there is potential to include sentence about 'significance of weight' to the adaptation of buildings' within supporting text, as this is not mentioned anywhere at the moment.

Council response: support.

ENVIRONMENTAL PROTECTION AND TACKLING CLIMATE CHANGE

23 Steps will be taken to prevent developers 'gaming' Biodiversity Net Gain rules by clearing habitats before submitting applications. "We will work with Defra to review the current degradation provisions for Biodiversity Net Gain", the document says, "to reduce the risk of habitat clearances prior to the submission of planning applications, and before the creation of off-site biodiversity enhancements".

24 Use of artificial grass by developers in new development would be clamped down on. "We will consider how we can halt "the threat to wildlife created by the use of artificial grass by developers in new development (noting the importance of some uses of artificial grass such as on sports pitches)", the document says.

25 The possibility of embedding a broad form of carbon assessment in planning policy will be explored. "We are interested in whether effective and proportionate ways of deploying a broad carbon assessment exist, including what they should measure, what evidence could underpin them ... and how they may be used in a plan-making context or as a tool for assessing individual developments", the document says.

26 Policy and guidance in relation to the production of Strategic Flood Risk Assessments will be reviewed. "This will be done to encourage maximum coverage and more frequent updates", the document says.

Suggested response – that nndc supports all of these proposals

PLAN-MAKING

27 Steps are being taken to maximise the amount of authorities who can make use of policy changes around plan-making intended to be introduced by NPPF revisions in the Spring, before the revised plan-making system set out in the Levelling Up Bill is introduced in late 2024. Plan-makers will have until 30 June 2025 to submit their local plans, neighbourhood plans, minerals and waste plans, and spatial development strategies for independent examination under the existing legal framework. The government is also proposing that, to be examined under existing legislation, all independent examinations of local plans, minerals and waste plans and spatial development strategies must be concluded, with plans adopted by 31 December 2026.

28 Authorities will be required to start work on new plans by, at the latest, five years after adoption of their previous plan, and to adopt that new plan within 30 months. “Under the reformed system, which we expect to go live in late 2024, there will be a requirement for local planning authorities and minerals and waste planning authorities to start work on new plans by, at the latest, five years after adoption of their previous plan, and to adopt that new plan within 30 months,” the document says.

This effectively means that any Plan submitted before the 30th of June 2025 will be examined under the current process but would have a maximum life of five years from the date of its adoption by which time it should be replaced with a new style Plan, namely a slimmed down more strategic document with site allocations but fewer development management style policies. Given the suggested 30 month preparation timetable work on this new Plan would need to commence very shortly after adoption of our current Plan.

29 Authorities that do not meet the 30 June 2025 submission deadline for ‘old-style’ plans will need to prepare plans under the new plan-making system.

30 Plans that will become more than five years old during the first 30 months of the new system will continue to be considered ‘up-to-date’ for decision-making purposes for 30 months after the new system starts. Where a plan has been found sound subject to an early update requirement, and the Inspector has given a deadline to submit an updated plan within the first 30-months of the new system going live, this deadline will be extended to 30-months after the new system goes live, the document says

31 Authorities will no longer be able to prepare supplementary planning documents (SPDs) in the revised planning system. Instead, they will be able to prepare Supplementary Plans, the document says, which will be afforded the same weight as a local plan or minerals and waste plan. The government proposes that, when the new system comes into force (expected late 2024), existing SPDs will remain in force for a time-bound period; until the local planning authority is required to adopt a new-style plan. Current SPDs will automatically cease to have effect at the point at which authorities are required to have a new-style plan in place, it says.

This appears to be a dramatic change with the requirement for all SPDs to become Supplementary Plans once an Authority shifts to a new style Local Plan. This would mean that documents such as the Design Guide and Landscape Character Assessments would be subject to examination? It is not clear but it is assumed that these could be prepared either at the same time as a Local Plan (probably preferable) or on a separate timetable following Local Plan adoption?

Such Supplementary Plans, once adopted, would have the same weight as Local Plans rather than the current system which gives such documents lesser weight in the decision making process. This would also have significant resource implications as well as removing flexibility from the system for LPAs

Suggested response – That nndc supports the proposed transitional arrangements which allow for the completion of Plans already in production over a reasonable timetable. Without a significant increase in resources there is little realistic prospect of revised style Plans being prepared in the suggested 30 month timetable,

Neighbourhood Planning

The exception from the “tilted balance” in situations where the presumption of sustainable development is applied is proposed to be extended from 2 yrs to five in the case of adopted neighbourhood plans but this is clarified that this would only apply if the neighbourhood plan included additional growth sites to meet its identified housing requirements. The proposed NPPF also removes the existing additional conditions which stipulates that only where the neighbourhood plan’s parent local authority can demonstrate at least a three-year supply of housing land and has delivered at least 45 per cent of its housing requirement in the last three years, does the protection apply.

This changes the amount of protection from speculative development in a Neighbourhood Plan Area significantly and gives neighbourhood plans a significant layer of protection and more incentive to produce neighbourhood plans and perhaps the confidence to rely on them in a meaningful way. This addresses an issue that is present in neighbourhood planning across North Norfolk and around the country around the reluctance of communities to include allocations despite identifying high levels of need. The change is welcomed by officers and could go a long way to providing further reasoning for parish councils to allocate sites in a neighbourhood plans to address local need. Such sites will give parish council control of growth for a meaningful period and contribute to the windfall requirements of the Council and it is seen as an alignment with the purpose of neighbourhood plans which is to provide for additional growth in respect of locally identified need rather than an over reliance on protectionist approaches.

NATIONAL DEVELOPMENT MANAGEMENT POLICIES

32 There is intended to be a consultation next year on how National Development Management Policies (NDMPs) are implemented. They will cover planning considerations that apply regularly in decision-making across England or significant parts of it, the document says, such as general policies for conserving heritage assets, and preventing inappropriate development in the Green Belt and areas of high flood risk. Before any NDMP was designated by the secretary of state, there would be a public consultation

Suggested response – NNDC strongly objects to this proposal. Any national policies should be for guidance only (model templates) and should not replace, or outweigh, locally produced policies which will have been subject to local consultation and independent examination.

33 The starting point for creating NDMPs would be existing parts of the NPPF that apply to decision-making. “However, we welcome views on whether there are other topics that should be added,” the document says. Two other categories for NDMPs, in the government’s “initial view”, are firstly, “selective new additions to reflect new national priorities, for example net zero policies that it would be difficult to develop evidence to support at a district level, but which are nationally important”, and secondly “selective new additions to close ‘gaps’ where existing national policy is silent on planning considerations that regularly affect decision-making across the country (or significant parts of it)”. Indicative examples of ‘gaps’ where national policy is silent on common decision-making issues, which the documents says NDMPs might address, are: carbon reduction in new developments; allotments and housing in town centres and built-up areas.

34 NDMPs will cover “only matters that have a direct bearing on the determination of planning applications. Other key principles, according to the consultation, are that they would be “limited to key, nationally important issues commonly encountered in making decisions on planning applications across the country (or significant parts of the country); and that they would solely address planning issues, “in other words that concern the development and use of land”.

OTHER

35 Authorities will be expected to take particular care to ensure that they meet need for retirement housing, housing-with-care and care homes. The government proposes to do this by adding an additional specific expectation to the NPPF.

Suggested Response. NNDC welcomes and supports this provision

36 Authorities will be encouraged to use planning conditions to require clear details of a scheme’s design and materials. The document says: “We propose to amend the Framework to encourage local planning authorities to consider how they can ensure that planning conditions associated with applications reference clear and accurate plans and drawings which provide visual clarity about the design of development, as well as clear conditions

about the use of materials where appropriate, so they can be referred to as part of the enforcement process”.

37 Mansard roofs would be encouraged. The government is proposing that “a reference to mansard roofs as an appropriate form of upward extension ... where appropriate” should be added to the NPPF.

Suggested response – that NNDC should object to such detail prescription appearing in national policy given that mansard roof additions are widely regarded as an unacceptable architectural feature outside of urban areas.

38 Protection against development that conflicts with neighbourhood plans is to be extended to older such plans. The NPPF currently says that the adverse impact of allowing development that conflicts with the Neighbourhood Plan is likely to outweigh the benefits, but not if that plan is more than two years old. The government is proposing that the protection should be extended to plans that are up to five years old. It is also proposing removing tests which currently mean local planning authorities need to demonstrate a minimum housing land supply and have delivered a minimum amount in the Housing Delivery Test for Neighbourhood Plans to benefit from the protection.

As above, this measure is likely to incentivise those preparing neighbourhood Plans as it would increase the confidence that the provisions of such Plans which propose to deliver housing growth will protect communities from alternative proposals.

Suggested response – that NNDC supports this provision

39 Planning for provision of social rent homes is to be given higher priority in the NPPF, the document says although views are sought via the consultation about how this might be achieved.

Suggested response – that nndc strongly supports this proposal

3 Recommendations

3.1 Members of the Planning Policy & Built Heritage Working Party recommend to Cabinet that the Authority responds to the consultation as outlined in this report.

4 Legal Implications and Risks

3.1 None

4 Financial Implications and Risks

4.1 No financial implications or risks are identified.