

Consultation on the National Planning Policy Framework and Proposed Response
Report by Head of Planning and Planning Policy Officer

Summary: This report advises Members of the content of the draft revised National Planning Policy Framework, identifies the main changes and recommends a proposed response.

Recommendation: That Members note the contents of the report and endorse the comments outlined in Sections 3-5 including the responses set out in Appendix 1 of the report.

1. Introduction

- 1.1 Members will recall that in July 2011 the Department for Communities and Local Government (DCLG) published the first draft National Planning Policy Framework (NPPF), which was proposed as a single document to set out national planning policy and provide statutory guidance to Local Planning Authorities (LPA) and stakeholders around matters including the development of planning policy and the determination of planning applications. The final version of the NPPF was published in March 2012 and the NPPF has since shaped policy development as well as having been a significant material consideration in the determination of planning applications.
- 1.2 Subsequent to its publication various other pieces of guidance have been produced, including the web-based Planning Practice Guidance (PPG), and cumulatively these comprise the national guidance. Local Plans are required to be in accordance with the NPPF and Members will recall that conformity with this has been a key consideration in the development of the Broads Local Plan
- 1.3 On 5 March 2018 the Ministry for Housing, Communities and Local Government (MHCLG) published the revised NPPF for consultation. The consultation period concludes on 10 May 2018 and the MHCLG has indicated its intention to consider the responses and publish the final version of the NPPF in the summer.
- 1.4 In addition to the NPPF consultation, there are also further consultation documents published covering matters including the draft planning practice guidance on viability and the housing delivery test measurement rulebook.

2. Summary of the draft National Planning Policy Guidance

- 2.1 The draft document is set out in 17 chapters. Some of these are relevant to all LPAs (eg Chapters 2 – 4 inclusive covering ;'Achieving sustainable development', 'Plan-making' and 'Decision-making'), some cover common and significant planning issues (eg Chapters 5, 6 and 11 covering, respectively, 'Delivering a sufficient supply of homes',

'Building a strong, competitive economy' and 'Making effective use of land') whilst others are more specialist (eg Chapters 13 and 17 covering, respectively, 'Protecting Green Belt land' and 'Facilitating the sustainable use of minerals').

2.2 The key themes from each chapter of relevance to the Broads can be set out as follows:

Chapter 1: Introduction

2.3 The introduction confirms the principle of a plan-led system, reiterating that 'Planning law requires that applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise' (para 2).

Chapter 2: Achieving Sustainable Development

2.4 This chapter reiterates the objective of sustainable development, which continues to be identified at a high level as 'meeting the needs of the present without compromising the ability of future generations to meet their own needs'. It advises that a presumption in favour of sustainable development lies at the heart of the Framework, and provides detail on this in para 11, which is attached at Appendix 2.

2.5 Footnote 7 identifies 'areas or assets of particular importance' where the full implementation of NPPF policies may not be appropriate, and this list includes, inter alia, the National Parks and the Broads, designated heritage assets and areas at risk of flooding or coastal change.

Chapter 3: Plan-making

2.6 This chapter reiterates the 'plan-led' process, but adds components of aspiration and deliverability as well as increasing emphasis on engagement with communities, stakeholders and others. It also requires greater use of digital technology in consultation to improve accessibility. A clear distinction is made between 'strategic' policies and 'local' policies, with the former responding to the identified priorities and opportunities for the area, whilst the latter includes an emphasis on neighbourhood plans and the role of these in the statutory process. Cooperation between the various level of plan and type of plan-maker is identified as critical.

2.7 Changes to the tests of soundness relate to consistency so that the spatial development strategy is assessed like strategic policies, that plans are positively prepared to meet objectively assessed housing need, and that value is placed on the Statements of Common Ground. There is also reference to the need for the tests of soundness to be applied proportionality

2.8 In terms of viability, it is suggested that viability assessments should not be required where a proposal meets development plan expectations on allocated sites. Plan-making viability studies may have to look at the viability of specific strategic sites in addition to being typology based. It should also be stated in what circumstances a viability appraisal is required to support a planning application.

Chapter 4: Decision-making

- 2.9 The value of frontloading, pre-application advice and engagement is given prominence in this section, as one of a suite of mechanisms to improve the ‘approvability’ of schemes as the emphasis is firmly on ‘Decision-makers at every level (should) seek(ing) to approve applications for development where possible’ (para 39). LPAs are also encouraged to use Local Development Orders, which create local permitted development rights, and Community Right to Build Orders to promote development. Caution is advised around the use of planning conditions, which should be kept to a minimum with pre-commencement conditions avoided where possible. This latter matter has been covered recently in the MHCLG consultation on the use of conditions.
- 2.10 Planning enforcement is covered in this chapter, where it is advised at para 59 that effective enforcement is important to maintain confidence in the planning system.

Chapter 5: Delivering a sufficient supply of homes

- 2.11 This new chapter brings forward a number of initiatives from the last few years, including the new standard methodology for assessing housing numbers.
- 2.12 Following the Budget, the draft text proposes that local planning authorities should ensure that at least 20% of the sites allocated for housing in their plans are on sites of half a hectare or less. The housing delivery measurement test rulebook has been brought forward with a tapered approach to measuring housing delivery against local plan targets over 5 years. It also advises that Authorities should have an additional "buffer" of site allocations depending on delivery circumstances (up to 20%). It would also require authorities who are delivering under 95% against their targets to produce an action plan as to how to tackle under-delivery.
- 2.13 On affordable housing, the definition has been widened to include starter homes and discounted market homes; and, on major sites at least 10% of homes should be available for affordable home ownership. No affordable housing should be required on sites below ten units (ie not on major sites), except in designated rural area, where a threshold lower than 5 may be set.

Chapter 6: Building a strong and competitive economy

- 2.14 The preamble to this short chapter identifies the role planning decisions can make in promoting economic growth, and states at para 82 “Significant weigh should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development”. There is strong emphasis on the need for an economic vison and strategy.
- 2.15 Concerning the rural economy, this is now included in the general economy chapter rather than the rural area being treated separately. The document identifies four strands of rural enterprise that planning should enable:
- a) Growth and expansion of existing business;
 - b) Development and diversification of agriculture and other land-based rural businesses;

- c) Sustainable rural leisure and tourism; and
- d) Retention and development of community services and facilities.

2.16 Paragraph 85 is significant and states:

Planning policies and decisions should recognise that sites to meet local business and community needs in rural areas may have to be found outside existing settlements, and in locations that are not well served by public transport. In these circumstances it will be important to ensure that development is sensitive to its surroundings, does not have an unacceptable impact on local roads and exploits any opportunities to make a location more sustainable (for example by improving the scope for access on foot, by cycling or by public transport). The use of previously developed land and sites that are well-related to existing settlements should be encouraged where suitable opportunities exist.

Chapter 7: Ensuring the vitality of town centres

2.17 The approach seeks to strengthen the role and resilience of town centres through a sequential approach to town centre-uses, maintaining connections to the town centre and allowing diversity and flexibility of uses. Town centre policies should now look 10 years ahead, and there is more emphasis on regeneration and policy interventions to address this

Chapter 8: Promoting healthy and sustainable communities

2.18 The policies in this chapter relate primarily to the urban environment and the contribution planning can make to promoting social interaction, cohesion and safety as well as a healthy and active lifestyle. It requires policies and decisions to consider the social and economic benefits of estate regeneration, as well as make provision for infrastructure such schools, and social facilities including open space, recreational land, public rights of way and Local Green Space.

Chapter 9: Promoting sustainable transport

2.19 The draft NPPF sets out the objectives to be met in respect of transport infrastructure, which include addressing the impacts of development, exploiting opportunities to promote walking, cycling and public transport and taking environmental impacts into account. It states that transport issues should be considered from the earliest stages of plan-making and in developing proposals so that the planning system can support these objectives.

2.20 The guidance on taking highways issues into account in decision making is clear, stating that “Development should only be prevented or refused on highways grounds if the residual cumulative impacts on the road network or road safety would be severe” (para 109). It does, however, also state that applications for development should give priority to pedestrians and cyclists and notes the role of public transport.

Chapter 10: Supporting high quality communications

2.21 Much telecommunications development is covered either by permitted development rights or the prior notifications procedure. This short chapter therefore simply reiterates

the role of advanced, high quality telecommunications development in supporting economic growth and social wellbeing and advises that LPAs should support the expansion of such networks, whilst encouraging them to be suitably designed and located.

Chapter 11: Making effective use of land

- 2.22 This chapter can usefully be read in conjunction with Chapter 5 ('Delivering a sufficient supply of homes') as much of it relates to the national housing need. There is emphasis on identifying and bringing forward for development brownfield sites, reviewing allocated land where development is not coming forward and promoting optimal density of development, including higher density developments around commuter hubs. At a more local level it proposes that Local Plans set minimum density standards for parts of the plan area, and also gives encouragement to upward extensions.
- 2.23 There is a recognition that some undeveloped land can perform other functions, for example wildlife, recreation, flood risk mitigation (para 11(b)).

Chapter 12: Achieving well-designed place

- 2.24 This short chapter discusses the importance of design in creating high quality buildings and places, outlining the value of clear policies and visions setting out clearly the design expectations so that developers and stakeholders have clarity on what is expected. It advises that these should be developed with local communities, and be based on an area's defining characteristics. It supports the use of design guides and codes within policy documents, and advises that LPAs should ensure that they have the appropriate tools and processes for evaluating design, which should take place throughout the evolution of development proposals.
- 2.25 In terms of decision-making, it advises that "Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions ..." (para 129) which great weight should be given to outstanding or innovative designs which promote high levels of sustainability or improve the overall character of an area.

Chapter 13: Protecting Green Belt land

- 2.26 This is not directly relevant to the Broads.

Chapter 14: Meeting the challenge of climate change, flooding and coastal change

- 2.27 Climate change is recognised in the document as a key challenge, and the proactive role of the planning process in reducing the risk and managing and mitigating impacts is outlined. The document is comprehensive in its approach, and advises that LPAs should account for climate change in all aspect of planning.
- 2.28 Looking at flood risk, a precautionary approach is advocated whereby development is avoided in areas of highest risk, with safety measures incorporated where such development is necessary. The existing approach is retained, whereby risk is identified

at a macro scale through a Strategic Flood Risk Assessment and this is then used to inform sequential approach to both plan-making and decision-taking.

- 2.29 Development in coastal areas vulnerable to physical change should be avoided, unless appropriate.

Chapter 15: Conserving and enhancing the natural environment

- 2.30 This chapter identifies the role of the planning system in contributing to and enhancing the natural environment. Those areas which are of most relevance to the Broads are:

“a) protecting and enhancing valued landscapes, ...
b) recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland;
d) minimising impacts and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures; ...”

- 2.31 The document retains the particular reference to the great weight to be given to conserving landscape and scenic beauty in the National Parks and the Broads, and goes on to state that the scale and extent of development within these designated areas should be limited, which is a useful explicit clarification.
- 2.32 In terms of plan-making, LPAs are advised to identify and map the habitat components of bio-diversity as well as promote the conservation, recreation and restoration of priority habitats and species and ecological networks. In terms of decision-making, the hierarchy of avoid, mitigate, compensate or refuse is retained.
- 2.33 The approach to be taken to contamination, pollution and similar environmental issues is set out in this chapter and the document advises that planning decisions should contribute to compliance with national objectives and values for pollution. Clarification is also given around the role of complementary regulatory regimes, advising that planning should not revisit such issues and should “assume that these regimes will operate effectively” (para 181).

Chapter 16: Conserving and enhancing the historic environment

- 2.34 The current NPPF is strong on the protection of the historic environment and the draft proposes no significant changes.

Chapter 17: Facilitating the sustainable use of minerals

- 2.35 This is not directly relevant to the Broads.

3. Commentary and the main changes

- 3.1 The draft proposes extensive change to the wording of the existing NPPF, with very little of the original document left untouched. In general the ordering within sections is clearer, with general principles first, then what plans should do, then how to approach decision making, then other considerations.

- 3.2 The explicit retention of the plan-led system is welcome, as is the emphasis on sustainable development, although given the scale of development being promoted (especially around housing) there is clearly a very wide interpretation of the definition of 'sustainable development'.
- 3.3 The main areas of change are as follows, which are set out in the order in which they appear in the document.
- 3.4 The objectives set out in para 8 (economic, social and environmental) have been extended and now include, inter alia, an emphasis on improved productivity (economic), increasing housing supply (social) and explicitly covering the effective use of land (environmental). This change increases both their breadth and scope, and hence what the Government is expecting of the planning system.
- 3.5 There is a clearer division between strategic and non-strategic plans, which is indicative of the increased emphasis the Government is placing on Neighbourhood Plans as a means to better engage communities in plan-making and local decisions. These are expected to support strategic plans. There is also a greater emphasis in plan-making on strategic planning and cross-boundary planning, through the Duty to Cooperate. Planning policy will need to set out 'an appropriate strategy' (para 21), which contrasts with the current NPPF which refers instead to 'the most appropriate strategy' which suggests that LPAs will have more flexibility, subject, of course, to justification.
- 3.6 In the development of planning policy, there is a requirement to prepare and maintain Statements of Common Ground with major stakeholders, the purpose of which is to promote cooperation.
- 3.7 Health and affordable housing are identified as 'infrastructure', which potentially increases the scope for their funding, for example through CIL where this has been adopted.
- 3.8 In respect of housing, there is an increased emphasis on supply, build-out rates and addressing the constraint issues on sites which have not come forward, in order to promote their development or reallocation. The document is more explicit around deliverability and develop ability, and Members should note that the Letwin Review (which is due to report in the autumn) has noted that

"The fundamental driver of build out rates once detailed planning permission has been granted for large sites appears to be the "absorption rate" – the rate at which newly constructed homes can be sold into (or are believed by the house-builder to be able to be sold successfully into) the local market without materially disturbing the market price".

The draft document appears to be mindful of this comment, but does not specifically address it and it will be interesting to see how it is developed in the final version. There is provision in the document for LPAs to consider reducing the time period for development to commence (ie reducing the time limit down from 3 years) and for it to assess why permissions for major development have not been commenced – it should noted that delays in making a start on development are frequently for non-planning reasons.

- 3.9 There is a stronger requirement to provide a range of types of homes so that groups with specific needs are better provided for. This may be relevant in the Broads, where the demographic profile shows a higher proportion of older persons.
- 3.10 In terms of housing supply, there is a greater emphasis overall on small sites, and affordability, as well as strong support for the provision of entry level homes on non-allocated land outside settlements, which is in principle the same as a rural exceptions site approach. The document recognises that in areas of particular importance (ie covered by Footnote 7, see 2.5 above) restrictions may apply.
- 3.11 The Housing Delivery Test Mechanism is new, but has been much trailed.
- 3.12 The reference to highway safety, in addition to the usual matters of congestion and capacity, in the 'Promoting Sustainable Transport' chapter is new.
- 3.13 As will have been seen at paras 2.24 and 2.25 above, the draft NPPF places greater emphasis on design than its predecessor, and this is particularly welcome given the status of the Broads as a protected landscape. In recent years much of the design guidance at a national level – for example CAGE and the Code for Sustainable Homes – have been disbanded, so it is good to see the recognition of design as an important element.
- 3.14 There is a new reference to Marine Policy Statements, marine plans and Coastal Change Management Areas in the chapter on climate change, flooding and coastal change, with a precautionary approach.
- 3.15 In chapter 15 ('Conserving and enhancing the natural environment') guidance is provided on integrating new development with existing development and LPAs are advised that "Existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established" (para 180). The onus for resolving the potential conflict through mitigation is placed on the applicant, identified as the 'agent of change'. This is a significant change and potentially refers to a range of businesses, including pubs, music venues and sports clubs.

4. Proposed response

- 4.1 The draft NPPF is accompanied by a questionnaire setting out the consultation questions. The proposed response is attached at Appendix 1.

5. Conclusion and recommendation

- 5.1 The draft NPPF sets out proposed changes to the national planning regime. Whilst the revisions to the document are extensive, there are no changes proposed which would have a significant adverse impact on the Broads Authority as LPA.
- 5.2 It is recommended that the response set out below is submitted to MHCLG as the formal response of the Broads Authority.

5.3 Members will be updated on the final version of the NPPF when it is published in due course.

Background papers: NPPF

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Appendices: APPENDIX 1: Proposed response to consultation
APPENDIX 2: Extract from NPPF

DOCUMENT:	National Planning Policy Framework – consultation proposals and proposed text – 70 pages long.
LINK	Text: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/685289/Draft_revised_National_Planning_Policy_Framework.pdf
DUE DATE:	10 May 2018
STATUS:	Government consultation on final draft
PROPOSED LEVEL:	Planning Committee endorsed
NOTES:	This document is a neat summary of the changes that are proposed to the NPPF text and why these changes are proposed. This is 28 pages long. https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/685288/NPPF_Consultation.pdf
PROPOSED RESPONSE:	<p><u>Consultation proposals:</u></p> <ul style="list-style-type: none"> • Annex A, page 28. Are all of these to be superseded now by the Draft NPPF when it is finalised? This needs to be made clear. • Viability assessment circumstances: Where there is a proposal for a change of use from say a business to something else, we require viability evidence to prove this is needed. Presuming that this will still be acceptable? That is to say that this is an instance where viability appraisals are needed and is set out in the Local Plan. • Transitional arrangements, if a Local Plan is examined and adopted within the six months that is ok, but it will be not produced under the new NPPF. So if there is a conflict between the new Local Plan that has been found sound and adopted and the new NPPF, what happens? Or are the transition arrangements on the proviso that the Local Plan will then be reviewed straight away? This needs clarifying. • Permitted Development Rights relating to building upwards. This should not apply in protected landscapes such as AONB, Conservation Areas, the Broads and National Parks. • How will the developer contributions document be weaved into the NPPF? Or will there be a standalone document? <p><u>NPPF</u></p> <ul style="list-style-type: none"> • Paragraphs 4 and 5. For the avoidance of doubt and to assist users, suggest a full list with links to the documents is included. • Footnote 7, page 6: Change to remove the brackets around the Broads and better refer to Broads rather than the Broads Authority. There is no need for brackets and the wording change makes better grammatical sense by referring to being with an area rather than within an authority: <i>'7 The policies referred to are those in this Framework relating to sites protected under the Birds and Habitats Directives and/or designated as Sites of Special Scientific Interest; land designated as Green Belt, Local Green Space, an Area of Outstanding Natural Beauty, within a National</i>

Park (for the Broads Authority) or defined as Heritage Coast; irreplaceable habitats including ancient woodland; aged or veteran trees; designated heritage assets (and other heritage assets of archaeological interest referred to in footnote 55); and areas at risk of flooding or coastal change. It does not refer to policies in development plans’.

- Paragraph 14, page 7. So if the Neighbourhood Plan does not allocate sites for housing then paragraph 14 does not apply? None of the Neighbourhood Plans in the Broads Authority area allocate sites for development. So there are no tests to pass to be contrary to a Neighbourhood Plan that does not allocate sites? This needs to be clear.
- Paragraph 14a, page 7. So in areas where the HDT does not apply, only the first part of 14a applies?
- Paragraph 64 – There is not mention of schemes that are 6-10 dwellings and rural areas. The NPPF sets out what is allowed for 5 or less and more than ten but nothing about 6-10. The last part of 64 relating to reducing by a proportionate amount and footnote 22 – the methodology for working out the amount to reduce this by is not complete and is not clear. For absolute clarity, please make obvious a list of areas that are ‘designated rural areas’.
- Paragraph 64 uses the term ‘major sites’ and 65 uses the term ‘major housing development’. Are these the same things? Is this major development as defined in other Acts? This needs clarifying and the term needs to be consistent.
- Paragraph 66 – what is the methodology for this? In areas like the Broads where there are two LPAs involved and plans are at different stages and no entire parish is within the Broads’ area, who sets the figure for the entire Parish?
- Paragraph 72 – is this starter homes on rural exceptions sites? Note that the term ‘starter homes’ is only included once and in the glossary to define the term ‘starter homes’. What is an entry level home? That is not defined in the glossary. Are they the same thing?
- Paragraph 74 b – so according to a) we have to apply 5% anyway. According to c) if we are a persistent under deliverer we apply 20%. But when do we apply 10%? b) refers to ‘where the LPA wishes to...’. This is not clear, even in the NPPG (where 5% is not mentioned).
- Paragraph 81d – does this mean garden, buildings or both? Everything in the residential curtilage (so outhouses, sheds, gardens, driveways and farm buildings)? Do you mean ‘dwellings’ can be subdivided rather than ‘properties’? As worded (property) there is a risk that all gardens/sheds etc. in rural areas will be developed. Gardens are still excluded from the definition of previously developed land in the glossary. Care must be taken of unintended consequences from poorly drafted wording open to interpretation.
- Paragraph 85 – is this saying that rural businesses are acceptable in all instances if they only meet those three criteria? It is not clear how a small rural business can exploit opportunities to make a location more sustainable – can we reasonably ask for them to pay for and deliver a new footway to an existing settlement or extend or provide a new bus service to serve their business? This needs clarifying.
- Paragraph 118e. Care needs to be taken for such proposals in protected landscapes such as AONB, Conservation Areas, the Broads and National Parks

	<p>where the impact on the very character they are designated for will be harmed.</p> <ul style="list-style-type: none">• Paragraph 168 – are there recreational impacts on European designated sites concerns about this? The undeveloped sites could be the protected sites and there could be recreation impact issues.• Finally, throughout all the documents, there are numerous terms used. MHCLG should check for consistency and intentions: local plans versus strategic plans versus development plans. Local planning authorities versus strategic plan making authorities versus plan making authorities versus local authorities.
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The presumption in favour of sustainable development

11. Plans and decisions should apply a presumption in favour of sustainable development.

For **plan-making** this means that:

- a) plans should positively seek opportunities to meet the development needs of their area, and be sufficiently flexible to adapt to rapid change;
- b) strategic plans⁵ should, as a minimum, provide for objectively assessed needs for housing and other development, as well as any needs that cannot be met within neighbouring areas⁶, unless:
 - i. the application of policies in this Framework that protect areas or assets of particular importance provides a strong reason for restricting the overall scale, type or distribution of development in the plan area⁷; or
 - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

For **decision-taking** this means:

- c) approving development proposals that accord with an up-to-date development plan without delay; or
- d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:
 - i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed⁷; or
 - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

12. The presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making.

⁵ Local plans or spatial development strategies that contain policies to address the strategic priorities of an area (see chapter 3).

⁶ As established through statements of common ground.

⁷ The policies referred to are those in this Framework relating to sites protected under the Birds and Habitats Directives and/or designated as Sites of Special Scientific Interest; land designated as Green Belt, Local Green Space, an Area of Outstanding Natural Beauty, within a National Park (or the Broads Authority) or defined as Heritage Coast; irreplaceable habitats including ancient woodland; aged or veteran trees; designated heritage assets (and other heritage assets of archaeological interest referred to in footnote 55); and areas at risk of flooding or coastal change. It does not refer to policies in development plans.