

**The National Planning Policy Framework and
Assessment of Local Development Framework Policies**

Report by Director of Planning and Strategy and Head of Development Management

Summary:	This report advises members of the assessment of the policies in the Authority's Local Development Framework against the National Planning Policy Framework. It identifies where there are policy 'gaps' and set out an appropriate course of action for dealing with these. It also outlines the implications for the preparation of further Local Plans (formerly Development Plan documents) in the Authority's Local Development Scheme (LDS). It is anticipated that a revised Local Development Scheme will be presented for members' consideration at the 28 March meeting.
Recommendation:	That members note the contents of the assessment in Appendix 1 and agree the suggested approach as outlined in Sections 3 and 4 of the report.

1 Introduction

- 1.1 Members will recall that the National Planning Policy Framework (NPPF) was published in March 2012 and that it sets out the transitional arrangements that will apply to existing adopted policies. The transitional arrangements are that 'for 12 months from the day of publication, decision takers may continue to give full weight to relevant policies adopted since 2004 even if there is a limited degree of conflict with this Framework'. Following the 12 month period, due weight should be given to relevant policies in existing plans according to their degree of consistency with the Framework - the closer the policies in the Plan to the policies in the NPPF, the greater the weight that may be given.
- 1.2 The main policy documents in the Broads Local Development Framework are the Broads Core Strategy, adopted in 2007 and the Broads Development Management Policies, adopted in 2011. Full weight can continue to be given to the policies for the purposes of decision making until 27 March 2013, provided that there is only a limited degree of conflict with the NPPF. It is after that date that the consistency with the NPPF becomes an important consideration.
- 1.3 The NPPF restates the primacy of the Development Plan in planning decision making - planning applications must be determined in accordance with the

Development Plan unless material considerations indicate otherwise (referred to as the 'plan-led system'). The NPPF represents guidance both in drawing up plans and is a material consideration in determining applications. Where adopted policies are in conflict with the NPPF, the degree of weight to be attached to the advice in the NPPF as a material consideration becomes greater. It is therefore important that a detailed check of the adopted policies in the Local Development Framework against the requirements of the NPPF is undertaken.

- 1.4 Appendix 1 to this report provides a summary of the assessment which has been completed by officers. The assessment is based on a model checklist developed by the Planning Advisory Service (PAS) and the Local Government Association (LGA). The checklist enables local planning authorities to assess adopted policies against NPPF requirements, identify any gaps or areas of non conformity and start to plan how to manage the change. Although it has not been endorsed by the Department for Communities and Local Government, the PAS template has been used by a number of local planning authorities (including the New Forest NPA and the North Yorkshire Moors NPA). The assessment will be important in defending the weight to be given to the adopted Local Development Framework policies in application decisions and appeals.

2 Self Assessment Process

- 2.1 The NPPF condenses over 1000 pages of policy guidance into 55 pages and inevitably a lot of the detail contained in the former Planning Policy Statements (PPSs) and Planning Policy Guidance Notes (PPGs) has been lost. This is important because there are some areas where Local Planning Authorities were previously advised not to include policies in the Local Development Framework that would duplicate national policy in PPSs and PPGs. Now that these have been replaced there is potential for a policy and procedural 'vacuum' in some areas, the most significant of which for this Authority is in relation to the functional and financial tests for agricultural workers dwellings and floodrisk.
- 2.2 The picture is made more complex because a handful of PPSs and PPGs remain extant, together with Good Practice Guides and Circulars and these may still be taken into account in reaching planning decisions. Members will be aware from their agenda for the 1 February 2013 planning committee that the Government is committed to reducing the amount of extraneous guidance and had recently consulted on the findings of the Taylor Report which seeks to have much of this guidance removed by March 2013 and replaced by July 2013. They will also note from the report elsewhere on this agenda that a wider consultation on regulation is taking place as part of the Red Tape Challenge and this is likely to result in the removal of more guidance.

2.3 There are three aspects considered throughout the assessment table:

- whether an existing LDF policy is consistent with the NPPF or not;
- whether there is a policy 'gap' with the loss of the PPSs and PPGs; and
- whether there is additional information or evidence that would be desirable to have in place for the preparation of a new Plan but would not 'trigger' an immediate review of the LDF.

2.4 The summary of the assessment in Appendix 1 incorporates a 'traffic light' approach to indicate the degree of significance of variation between the adopted LDF policies and NPPF requirements as follows:

- **Red** – areas where there could be significant implications for decision taking - either because there is a conflict between an LDF policy and the NPPF or there is a gap in policy advice as a result of the loss of detail from Planning Policy Statements, Planning Policy Guidance Notes or Practice Guides. The assessment indicates the action that should be taken to deal with these areas.
- **Amber** – policies where there are less significant implications for decision taking - where there are requirements or advice now included in the NPPF that are not currently covered in LDF policies or supporting text and those aspects of the NPPF may need to be given weight in making decisions on applications but no immediate action needs to be taken in relation to plan making.
- **Green** – policies are considered to be wholly consistent with the NPPF and can be afforded full weight in decision making.
- **Blue** – Policy content is not reflected at all in the NPPF because of its very specific Broads nature e.g moorings, bank erosion. These policies should continue to be afforded weight in decision making until the Plan is reviewed. Any future policies will require robust local evidence and justification

2.5 In addition, there are some areas where it is considered that no immediate action needs to be taken. These are generally in relation to areas where the NPPF advises that certain evidence or advice should be incorporated into new Plans but which is not currently included in the adopted LDF and will not have any implications until the LDF is reviewed. This includes areas where additional evidence is required for preparing a new Plan.

3 Conclusions from the Self Assessment

3.1 The self assessment shows that the majority of the LDF policies are in general conformity with the NPPF and can continue to be given full weight beyond March

2013. In view of this it is not considered necessary to undertake an immediate full review of the Core Strategy and Development Management Policies. The Site Specifics Policies are to be submitted shortly and have been prepared in the context of the NPPF. Therefore their consistency with the NPPF will ultimately be decided at examination later in the year when the Inspector considers the issue of soundness. Following the conclusion of that process it will be apposite to begin a review of the Core Strategy and DM policies and bring them together to form a Local Plan and start to address the issues highlighted in paragraph 2.4 above. A revised Local Development Scheme setting out the proposed timetable for this will be presented to Members in due course. It is important to recognise that the special status of National Parks and the Broads as areas where development is restricted and landscape conservation is to be given great weight is recognised in the NPPF. Paragraph 115 of the NPPF continues to give the highest status of protection to National Parks and the Broads in relation to landscape and scenic beauty, maintaining the position set out in the former PPS 7 and footnote 9 identifies National Parks and the Broads as areas where development should be restricted and the presumption in favour of sustainable development does not apply. This confirmation in the NPPF is welcomed, but it is nonetheless appropriate to ensure that this is interpreted locally and incorporated into Broads-specific policies.

3.2 There are, however, four main areas where there are potential significant implications for decision making which are set out below. In some of these cases, it is considered that the non conformity of the LDF with the NPPF can be justified given the weight to be attached to conserving landscape and scenic beauty that is set out in paragraph 115 of the NPPF. The Authority may be challenged in these areas on a case by case basis and it will be important to maintain its policy position using the explanation and justification set out in the assessment. The main areas where implications could arise are:

- **Paragraph 28** – the NPPF supports the sustainable growth and expansion of all types of business in rural areas, through conversion and well designed new buildings. The NPPF does not contain any restriction on where new build development for employment purposes can take place, referring only to ‘rural areas’ which could imply within villages or open countryside. However, in open countryside, the LDF policies support the conversion of existing buildings rather than new buildings for employment development. New buildings are permitted within villages where there are no suitable sites or accommodation in the vicinity. It is considered that this approach is appropriate within a Broads context, whereas Policy DP21 of the Development Management Policies gives great weight to protecting the landscape, biodiversity and cultural heritage of National Parks. Officers consider that it would be unreasonable for ‘rural areas’ to be equated to ‘open countryside’ and therefore this may not be a significant issue.

- **Paragraph 51** – the NPPF states that applications for change to residential use from commercial uses should normally be approved, provided that there are not strong economic reasons why this would be inappropriate. The policies in the LDF seek to resist the loss of commercial and employment premises to other uses, unless it can be robustly demonstrated that they are no longer suitable or viable for these purposes – particularly boatyard or waterside uses. Officers consider that the caveat provided by the NPPF in relation to ‘strong economic reasons’ should apply to the Broads due to the fragile nature of the rural economy and the strong reliance on tourism/boating uses. However, it is considered that this is an appropriate approach in a location where development opportunities are limited, and it is important that the policy does not impose a blanket ‘ban’ on such changes of use. Members will be aware from a report elsewhere on this agenda that the Government has extended Permitted Development Rights on changes of use to allow for this change without the need for planning permission albeit for a temporary period of three years and this to an extent overrides the assessment findings in any case.
- **Paragraph 55** – the NPPF restricts isolated new homes in the countryside to special circumstances including to ‘meet an essential need for a rural worker to live permanently at or near their place of work in the countryside’. There is no definition of what constitutes a ‘rural worker’. Policy DP26 of the Development Management Policies has a much more specific definition as the policy permits new houses in open countryside only where it is proven as essential for farming, forestry and other essential land management activities including boatyards. The assessment of essential need was based on the functional and financial tests set out in Annex A of PPS 7 which have now been lost.

CLG has not issued any formal advice on how to deal with this policy ‘gap’. Although it may eventually be resolved when the review of guidance has been completed by the Government, in the meantime the Authority is receiving pre application queries and applications for dwellings of this type which need to be dealt with. It is therefore recommended that the Authority continues the approach of using the functional and financial tests set out in Annex A of the former PPS 7 to deal with proposals for agricultural and other rural workers’ dwellings in open countryside.

In addition the NPPF also does not give any specific guidance on replacement dwellings which is a regular issue in the Broads. Therefore the existing adopted policies will continue to be applied and will no doubt be tested on appeal.

- **Paragraph 65** of the NPPF indicates that Local Planning Authorities should not refuse permission for development which promotes high levels of sustainability because of concerns about incompatibility with townscape if this

is mitigated by good design. Policy DP4 of the Development Management Policies supports sustainable approaches to design but also requires that this complements the character of the local area and reinforce the distinctiveness of the wider Broads setting. This is considered to be an appropriate approach given the NPPF's requirement that great weight is to be given to conserving landscape and scenic beauty in National Parks and the Broads.

- 3.3 In addition there are a number of policies in the current LDF documents that are very Broads specific and relate to circumstances that are probably only found in Broads Planning Policy Documents and are unique to the area. These include policies relating to moorings, bank protection, leisure plots and other specific navigation related issues. Not surprisingly the NPPF is absent or silent on specific guidance for these issues. Whilst the Core Strategy and Development Management policies remain in force these policies will continue to be given weight in decision making. However, Members should be aware that when it comes to Plan review it may be more difficult than previously for policies covering these areas to survive Examination by an Inspector particularly if the NPPF as currently drafted and the regulations surrounding the test of soundness remain as evidenced today. The approach the Broads Authority will need to take will be in compiling a sound and robust evidence base which justifies the need and basis of the policies.

4 Housing Policy

- 4.1 Members may be aware from the report presented in December 2012, in relation to the Duty to Co-operate, that the position of National Parks and the Broads in relation to housing provision is not made clear in the NPPF. ENPAA has sought further clarification from CLG. The Regional Spatial Strategy set a 'nil' figure for housing provision in the Broads in recognition of the special circumstances of the area e.g floodrisk, landscape and ecology. Any housing that occurred would be to meet local housing need. However, the abolition of the RSS has left a 'vacuum' with regard to whether the Broads should be meeting general housing need which the NPPF does not clarify.
- 4.2 Paragraph 47 of the NPPF states that Local Plans should meet the full objectively assessed needs for market and affordable housing in the area, but only 'as far as is consistent with the policies set out in this Framework'. Thus in the National Parks and the Broads, meeting housing needs has to be balanced with the weight to be attached to conserving their scenic beauty set out in paragraph 115. The footnote to this paragraph also makes reference to the National Parks Circular which states that 'the Government recognises that the Parks and the Broads are not suitable locations for unrestricted housing and does not therefore provide general housing targets for them'. Even if this approach is endorsed by CLG, under the Duty to Co-operate it remains essential to engage with the adjoining Districts to consider how this need will be met.

Members will recall that this process has begun through a Memorandum of Understanding which so far has been formally endorsed by Broadland and Waveney.

- 4.3 Meetings between ENPAA and CLG concluded that there is sufficient scope within the NPPF and especially the link to the Circular to conclude that National Park Authorities and the Broads should continue to focus on the delivery of housing to meet local and affordable needs and that to meet the full market and affordable needs would conflict with the other policies in the NPPF which seek to protect the National Park family. A draft 'articulation' of the relevant parts of the NPPF has been drawn up and it is intended that this will be agreed by ENPAA, CLG and PINS. This position does, however, need to be articulated through a logical process e.g. developing an evidence base through a Housing Market Assessment and then setting out the landscape constraints to meeting that need. The outcome of this process would conclude that, due to the constraints, future Broads Local Plans would not need to deliver the full amount of need identified or provide a 5 year housing land supply. This approach is being agreed with the constituent Districts through the Duty to Co-operate and the aforementioned Memorandum of Understanding.
- 4.4 Paragraph 54 of the NPPF suggests that local planning authorities should consider allowing some market housing on exception sites to facilitate affordable housing. In the future as funding for affordable housing on "exceptions" sites decreases, there may be more pressure for an open market element than currently experienced in the Broads to date.

5 Sustainability Appraisal

- 5.1 The policies in the Core Strategy and the Development Management Policies (and the Site Specifics Policies) were subject to Sustainability Appraisal and Habitats Regulations Assessment as part of their production. These assessments were not required as part of the production of the NPPF and therefore its implications have not been subject to the same level of rigorous assessment that is expected as part of a local plan. However, should any elements of the NPPF be incorporated into the LDF or Local Plan in the future these would need to be subject to Sustainability Appraisal and Habitats Regulations Assessment.

Background paper: None

Author: Andrea Long/Cally Smith
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Enclosure: APPENDIX 1 – List of Current Broads Local Development Framework Policies