



PART A:	MATTERS DEALT WITH UNDER DELEGATED POWERS
REPORT TO:	PLANNING COMMITTEE
DATE:	7 MAY 2018
REPORT OF THE:	HEAD OF PLANNING GARY HOUSDEN
TITLE OF REPORT:	MHCLG Consultations. Proposed revisions to the National Planning Policy Framework and Developer Contributions.
WARDS AFFECTED:	ALL

EXECUTIVE SUMMARY

1.0 PURPOSE OF REPORT

- 1.1 For Members to consider proposed revisions to national planning policy and proposed revisions to the current system of developer contributions and to agree this Council's response.

2.0 RECOMMENDATION

- 2.1 It is recommended that:
- (i) A response to the consultation is made in line with the commentary provided in paragraphs 6.6, 6.8, 6.10, 6.15, 6.17, 6.18, 6.22, 6.24 and 6.32 of this report.

3.0 REASON FOR RECOMMENDATION

- 3.1 Changes to national planning policy are relevant to the District Council as a Local Planning Authority. The proposed changes will have implications for the plan-making and decision-taking process.

4.0 SIGNIFICANT RISKS

- 4.1 The report is a response to a government consultation by the Ministry of Housing, Communities and Local Government (MHCLG). There are no direct, significant risks associated with the recommendation.

5.0 POLICY CONTEXT AND CONSULTATION

- 5.1 Planning policies and decisions are a key way in which the District Council helps to deliver against corporate priorities (Sustainable Growth and Customers and Communities). Members are reminded that national policy and changes to national

planning policy are a material consideration in the planning process and that they can lead to adopted development plan policies becoming inconsistent with national policy.

5.2 The consultation runs from 5 March 2018 -10 May 2018

6.0 REPORT

6.1 MCLG is currently consulting on proposed revisions to national planning policy - the National Planning Policy Framework (NPPF) and the accompanying Planning Practice Guidance (PPG). It is also consulting on ways in which to support housing delivery through developer contributions. In total, the consultation material covers over 200 pages and a total of 77 questions are posed. Against this background, this report and the proposed response to the consultation covers the policy changes which are considered to be the most significant for this District. In terms of the proposed changes to the NPPF, these include changes to the Presumption in Favour of Sustainable Development, plan-making, decision-taking and housing policies. The report does not cover proposed detailed changes to other subject areas covered by the NPPF. The Local Government Association has prepared a briefing note which lists the revisions in detail. This has been circulated to Members for information. The consultation was the subject of a recent Member Briefing on the 18 April 2018.

National Planning Policy Framework

6.2 The NPPF was brought into effect in 2012 by the then coalition government. The proposed revisions to the current framework:

- Aim to support housing delivery and follow the housing White Paper 'Fixing our broken housing market' and 'Planning for the right homes in the right places' consultations in 2017
- Reflect policy implemented through ten Written Ministerial Statements since 2012
- Clarify national policy, taking account of case law on the interpretation of policy
- Aim to improve the text to increase coherence and reduce duplication

6.3 The consultation material consists of:

- National Planning Policy Framework: Consultation Proposals (including consultation questions)
- National Planning Policy Framework: Draft text for consultation
- Draft Planning Practice Guidance: Draft updates (to accompany the main changes proposed to the NPPF itself)
- Housing Delivery Test Draft Measurement Rule Book (a draft methodology for calculating the Housing Delivery Test)

6.4 The revised NPPF retains a strong emphasis on the plan-led system and the presumption in favour of sustainable development remains at the heart of the framework. The majority of the more significant policy changes that are proposed relate to increasing housing delivery, reflecting the government's housing ambitions.

Achieving Sustainable Development

6.5 Members are aware that the NPPF establishes a strong policy presumption in favour of sustainable development. This has been a key mechanism which has led to the release of land for housing in advance of the completion of development plans and where local planning authorities are unable to demonstrate a deliverable supply of

housing land. In general, there has been some rewording of the presumption to reflect its use in practice. In addition, the interpretation of the policy presumption has been the subject of much action in the courts and proposed revisions to the NPPF are designed to clarify the wording. For example, at present, there is a weight in favour of the grant of planning permission where the development plan is 'absent, silent or relevant policies are out of date'. The proposed revisions aim to clarify this element of the presumption to read " where there are no relevant development plan policies, or the policies which are most important for determining the application are out of date'. The text also extends the list of policies where there is a specific reason to restrict development.

- 6.6 Clarification of the wording of the presumption is welcomed. The 'absent and silent' wording of the presumption has and continues to be used by developers to justify the 'super' weight of the presumption in areas such as Ryedale where the development plan is comprised of a number of documents and where the full suite of policies is not yet adopted. In this respect the proposed wording is to be welcomed.

Plan-making

- 6.7 A number of detailed revisions are proposed and include:
- Emphasis on defining strategic priorities in local plans or spatial development strategies (elected major or combined authority areas where plan-making powers have been conferred)
 - Ability for spatial development strategies to allocate sites where there is unanimous agreement
 - Some clarification of tests of soundness
 - Requirement to review plans every five years, with updates if necessary
 - Production of statement of common ground as evidence of the statutory duty to co-operate
 - Clarification that the tests of soundness will be applied proportionally to local policies according to the extent to which they accord with strategic policies
- 6.8 Broadly, the proposed revisions are welcomed and help to clarify elements of the plan-making process. The specific reference to the tests of soundness being applied proportionally to local policies according to the extent to which they align with strategic policies is a pragmatic approach and is particularly welcome.

Decision-taking

- 6.9 There are a limited number of changes to the decision-taking section of the NPPF to include:
- Provide clarification that viability assessment is not required where proposed development accords with policies in the plan
 - Encourage early pre-application engagement on affordable housing and infrastructure
 - Clarification that local information requirements do not apply to applications for permission in principle
 - Clarification of the weight that may be given to policies in emerging plans and puts into policy the approach to prematurity (previously contained in national planning guidance). This makes it clear that prematurity is unlikely to be a reason to justify the refusal of planning permission other than in the limited circumstances where both:
 - The development proposed is so substantial, or its cumulative effect is so great that it would undermine the plan process by predetermining decisions about

- the scale, location or phasing of new development central to an emerging plan and
 - The emerging plan is at an advanced stage but it is not yet formally part of the development plan for the area
- 6.10 The inclusion into national policy of the approach to prematurity is welcomed.
- Delivering a wide choice of homes
- 6.11 A number of substantive changes are proposed in respect of housing policies. Against the context of the government's commitments to housing growth and the 2017 Housing White Paper this is not unexpected.
- 6.12 A number of measures are proposed to address housing need, supply and delivery. Many of these have been suggested in previous consultations and they include:
- A standard national method of calculating need
 - A requirement for local plan policies to identify the size, type and tenure of homes required by different groups
 - Clarification that affordable housing should not be sought as part of development that is not major development, unless in a designated rural area where policies may set out a lower threshold of 5 units or fewer
 - Planning policies and decisions to expect at least 10% of homes to be available for affordable home ownership.
 - An expectation that local authorities should provide a housing requirement figures for designated neighbourhood areas
 - A revised definition of affordable housing (to include Starter Homes and other affordable routes to home ownership, including equity loans, low cost homes for sale and rent to buy)
 - 20% of site allocations in local plans to be 0.5ha or less
 - Providing authorities with the ability to consider the use of conditions to bring forward development within two years
 - Exception sites to provide entry level homes
 - Definition of 'deliverable' clarified
 - Ability for 5 year land supply position to be capable of being agreed for a one year period through an annual position statement
 - Establishes the policy consequences of a new housing delivery test
- 6.13 The new national approach to assessing housing need is outlined in detail in revisions to the national planning practice guidance. The methodology is a three step process. National household projections are the starting point from which an adjustment is made to take account of market signals. The adjustment factor is based on an affordability ratio that uses median house prices and median wages. For each 1% increase in the ratio of house prices to earnings above 4 results in a 0.25% increase in need above household growth. The resultant figure is the housing need figure for the area. The third step in the process is a capping of the level of any increase at 40% above the housing need figure.
- 6.14 Household projections and affordability ratios do fluctuate and change over time. The new national methodology would (using the latest household projections and affordability ratio) result in a housing requirement below the current adopted planned housing requirement.
- 6.15 The new national approach is welcomed. The standard methodology will provide a

consistent basis for the calculation of need and should avoid the inconsistent and protracted debate which is currently experienced as part of the plan making and decision-taking process.

- 6.16 The proposed revisions include a number of changes to support a range of house types and tenures and which are designed to support home ownership in particular. The proposed changes to the definition of affordable housing represent a significant change from the definition currently contained in the NPPF (Annex 2 Glossary). The latter explicitly notes that 'low cost' housing is not affordable housing for planning purposes. The proposed revisions reverse this longstanding position.
- 6.17 It is considered that changes to the definition of affordable housing will compromise this Council's ability to secure affordable housing contributions for affordable housing for rent, despite this being the tenure type which is affordable to the majority of households in housing need in Ryedale. The definition of affordable housing is now so broad in scope that the negotiation of provision of tenures to address acute need will become increasingly difficult. For this reason, it is considered that the revised definition of affordable housing should not be supported by this Council. It is considered that if the revised definition of affordable housing is to remain, national policy should establish a minimum proportion/ percentage for rented tenures.
- 6.18 Revisions to the NPPF include the policy established by a ministerial statement in 2014 to prevent affordable housing contributions being sought on small sites. This Council has previously expressed concerns to Government about the approach in response to earlier consultations. Members are aware that Ryedale has negotiated affordable contributions from small sites. Contributions have been secured where these are viable and in this respect, the approach has not stymied the development of small sites. It is considered that the Council should reiterate its concerns that the policy misses the opportunity to ensure that the delivery of affordable housing is maximised and will result in fewer affordable homes being secured and delivered in Ryedale. The proposed policy of 20% of housing land allocations to be small sites will reduce the extent to which an identified housing land supply is able to meet affordable housing need. The proposed approach is not considered to be an effective or efficient way of ensuring that housing sites help to address the range of housing needs.
- 6.19 The revisions include a number of measures to support delivery. The new Housing Delivery Test (HDT) and its consequences are aimed at encouraging local planning authorities to maintain the supply of housing. The HDT is a measurement of delivery which is to be reported annually. It is a percentage of total net homes delivered over a three year period divided by the total number of homes required over the same three year period. The adopted housing requirement figure or local need housing figure is used to inform the total number of homes required. If an adopted plan housing figure is less than five years old or has been reviewed then the figure to be used for the HDT measurement is the lower of the plan figure or the local housing need figure (based on the national standard method). If the plan housing requirement is more than five years old and is in need of revision, the local housing need figure is to be used.
- 6.20 The NPPF and practice guidance set out the approach to be followed in the event that delivery falls below requirements. For example, if delivery falls below 95% authorities are expected to prepare an action plan. Where delivery falls below 85%, a 20% supply buffer is to be applied. The Presumption in Favour of Sustainable Development applies where delivery falls below 25% in 2018; 45% in 2019 and 75% in 2020. The consultation also makes it clear that the Government is also considering linking New Homes Bonus payments to the HDT in 19/20.

- 6.21 Members are aware that recent housing delivery in Ryedale has exceeded planned annual rates. For the period 2014-17 837 (net) homes were delivered, against a requirement of 600 (@200 dwellings per annum). This represents a HDT result of 139.5%. The policy framework of the Ryedale Plan (including the incorporation/identification of a 20% supply buffer, the range of sites that make up the housing land supply and the Zone of Tolerance) helps to ensure that planned annual rates of housing are delivered. In this respect the delivery test is not considered to present any particular concern for Ryedale in the short to medium term. It does however, illustrate the significance of keeping the development plan up to date and of having a continuous supply of deliverable housing land.
- 6.22 Members are also aware that the current NPPF requires Local Planning Authorities to maintain a 5 year supply of deliverable housing land. This is retained within the revised document. The revisions to the document have provided the opportunity to clarify the definition of sites which can be considered deliverable. It now confirms, for example, that allocated sites and sites with outline permission should only be considered deliverable where there is clear evidence that housing completions will begin on the site in five years. This has been another matter which has been frequently considered at appeals and through the courts. The clarification is overdue and is to be welcomed.
- 6.23 The proposed revisions (expanded upon in the draft Planning Practice Guidance) provide the opportunity for the 5 year land supply position to be agreed for a one year period, either through a recently adopted plan or through a subsequent annual position statement. The consultation material states that in order to 'take advantage' of this policy a Local Planning Authority needs to have a minimum 10% land supply buffer. The position statement must be compiled following engagement with stakeholders and submitted to the Planning Inspectorate along with evidence provided by the Local Planning Authority and stakeholders on the deliverability of sites. The Planning Inspectorate will then make recommendations about likely site delivery for those sites in dispute.
- 6.24 The preparation of the annual position statement will require additional resourcing. It is unclear if the statements will be able to be produced in a timely way to ensure a position can be agreed for a year given that housing performance is monitored annually. In addition, as drafted, the only way in which a Local Planning Authority can demonstrate a five year supply position would be through the preparation of an annual statement. It is not clear whether Local Planning Authorities will be able to demonstrate a five year supply position (at appeal for example) in the absence of an annual statement. It is considered that this should be explicitly clarified in the text.

Reforming developer contributions to affordable housing and infrastructure

- 6.25 Members are aware that there are two main forms of developer contributions – contributions negotiated through Section 106 agreements (S.106) and those secured via the Community Infrastructure Levy (CIL). In Ryedale, both forms of contributions are sought and in line with current legislation there is a clear distinction over the use of both forms of contribution. In essence, s.106 contributions are used to provide affordable housing and on-site/site specific infrastructure. CIL is used to fund off-site infrastructure or infrastructure that is required as a result of cumulative development.
- 6.26 The Government is concerned that the current system is not working as well as it should. Issues of concern include:

- CIL is complex to establish, revise and implement
 - CIL is not responsive to market conditions
 - Development can be delayed by protracted s.106 negotiations
 - The ability to reduce s.106 contributions if this makes the development unviable
 - A lack of transparency over the use of contributions
 - The system is not designed to support cross boundary planning (outside of London)
- 6.27 In response, the Government is proposing a number of reforms to the current system in order to:
- Reduce complexity and uncertainty
 - Accelerate development
 - Increase market responsiveness
 - Improve transparency and accountability
 - Introduce a Strategic Infrastructure tariff
- 6.28 The consultation makes it clear that these reforms will be a first step for the short term and that they will be a 'springboard' for further reform. In this respect, it has confirmed that it will continue to explore options, including the use of nationally set, non-negotiable contributions.
- 6.29 Proposed key changes include:
- Streamlining the consultation process for the preparation of CIL
 - Integrating the production of the CIL Charging Schedule with plan-making
 - Lifting S106 pooling restrictions in areas that have CIL and removal of the requirement for the CIL Regulation 123 list
 - Improved transparency of viability assessments
 - CIL Charging Schedule to be based on existing use value of land
 - Simplifying the charging of CIL on complex sites
 - Requirement to produce Infrastructure Funding Statements to improve transparency
 - Ability for combined authorities to introduce a Strategic Infrastructure Tariff
- 6.30 Many of the above changes will require amendments to legislation before they are brought into effect. In general, changes that would speed up the process of preparing/revising a CIL Charging Schedule and which would improve the transparency of viability assessments are welcomed in principle.
- 6.31 At present, a clear distinction exists between the use of CIL and the use of s.106 monies. The proposed removal of the requirement to hold a Regulation 123 list and the lifting of s.106 pooling restrictions appears to provide greater flexibility in the use of contributions. In reality, for those authorities already operating CIL, this is likely to generate a need to review the Charging Schedule and viability work which underpins this, as any increase in the use of s106 contributions will need to be reflected in the CIL charges. Given that the Government has indicated that there will be further revisions to the system of contributions, it is unclear whether Authorities will have the appetite to devote resources to revising CIL Charging Schedules if the current system is likely to be superseded. At the very least, it is considered that the programme for further reform should be more explicit.
- 6.32 The requirement to produce Infrastructure Funding Statements is supported in principle and will demand close working with the upper tier authority to agree infrastructure spending priorities.

7.0 IMPLICATIONS

7.1 The following implications have been identified:

- a) Financial
No direct implications associated with the recommendation.
- b) Legal
No direct implications associated with the recommendation.
- c) Other (Equalities, Staffing, Planning, Health & Safety, Environmental, Crime & Disorder)

The release of the revised NPPF will have implications for implementation of some policies of the Ryedale Plan and the determination of planning applications. Members are aware that the Local Plan Strategy which includes all of the strategic policies for Ryedale will have been adopted for five years in September 2018. Once the Sites Document has progressed through examination, the authority will need to begin a review of policies in the plan and a 'roll forward' of the plan to ensure the development plan remains up to date and reflective of national policy.

8.0 NEXT STEPS

8.1 The Council's response will be sent to MHCLG.

8.2 The consultation material does not specify a date for the release of the revised NPPF. It is anticipated that this will be towards the end of summer 2018.

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Background Papers:

National Planning Policy Framework and Practice Guidance
National Planning Policy Framework: Consultation Proposals
National Planning Policy Framework: Draft text for consultation
Draft Planning Practice Guidance: Draft updates to planning
Housing Delivery Test Draft Measurement Rule Book
Supporting housing delivery through developer contributions

Background Papers are available for inspection at:

<https://www.gov.uk/government/consultations/draft-revised-national-planning-policy-framework>
<https://www.gov.uk/government/consultations/supporting-housing-delivery-through-developer-contributions>