

REPORT TO:	Special Planning Policy Committee - 21 February 2023
SUBJECT:	National Planning Policy Framework Consultation
LEAD OFFICER:	Neil Crowther, Group Head of Planning
LEAD MEMBER:	Councillor Richard Bower
WARDS:	All
CORPORATE PRIORITY / POLICY CONTEXT / CORPORATE VISION:	
<p>The recommendations supports:-</p> <ul style="list-style-type: none"> • Improve the Wellbeing of Arun; • Delivering the right homes in the right places. 	
DIRECTORATE POLICY CONTEXT:	
<p>The proposals will help to enhance the quality of the natural and built environment, protect the district's natural and heritage assets and to promote economic growth in a sustainable manner, striking a balance between the need for development and the protection of scarce resources.</p>	
FINANCIAL SUMMARY:	
<p>The are no financial implications at this time.</p>	

1. PURPOSE OF REPORT

- 1.1. To present the proposed changes to the National Planning Policy Framework that are being consulted on and to agree the Council's response to this consultation.

2. RECOMMENDATIONS

To agree the response to the consultation attached at Appendix 1 [to be circulated separately ahead of the meeting].

(If members seek and agree minor changes, these can be delegated to the Group Head of Planning in consultation with the Chair or individual members (depending on the nature of the amendment.)

3. EXECUTIVE SUMMARY

- 3.1. This consultation seeks views on the Governments proposed approach to updating to the National Planning Policy Framework. They are also seeking views on our proposed approach to preparing National Development Management Policies, how they might develop policy to support levelling up, and how national planning policy is currently accessed by users.

- 3.2. These changes have long been trailed but are a significant distance away from what was promoted back in 2020 when the Government published its 'Planning for the Future' White Paper, which sought to drive up housing delivery through a new planning system. This consultation is a radically watered-down version of some of those proposals.
- 3.3. Appendix 1 to this report will be published before the meeting containing proposed responses to the consultation questions.

4. DETAIL

- 4.1 The Government are undertaking a consultation on proposed amendments to the National Planning Policy Framework as a result of wider changes to the planning system proposed through the Levelling Up & Regeneration Bill.
- 4.2 This report will outline some of the more significant changes relative to Arun District. It will not go through every proposed change as they are too extensive. A proposed response to the consultation is attached as an Appendix which responds to all relevant questions. There are 58 questions in total. A consultation response is required to be submitted by 2 March 2023.

Housing Need

- 4.3 The Government remains committed to 300,000 homes per year by the mid 2020s and no changes are proposed to the Standard Method formula through this consultation; this will be reviewed once the Census 2021 based household projections have been considered, which are planned to be published by the Office for National Statistics in 2024.
- 4.4 The proposed changes are intended to introduce flexibility to the requirements placed upon Local Planning Authorities (LPAs) to plan for objectively assessed housing need. However, the proposed amendment to paragraph 15 of the NPPF actually gives greater emphasis on meeting housing needs, not less.
- 4.5 In terms of the method calculating housing need, the current NPPF only allows departure from the Standard Method where exceptional circumstances justify an alternative approach. A proposed insertion of a new Paragraph 61 establishes the Standard Method as 'advisory' and 'a starting-point for establishing a housing requirement for the area'. This proposed change is not really different to what already exists within the National Planning Policy Guidance. There already exists a process by which LPA's may put forward a case for housing targets lower than the Standard Methodology and this figure has always been the 'starting point'.
- 4.6 It remains to be seen how genuinely 'advisory' these targets are and what Inspectors will or won't accept as 'exceptional circumstances'. In recent years, it has been virtually impossible for LPA's (including within West Sussex) to put forward 'exceptional circumstances' that have been accepted by Inspectors. Mid Sussex failed to do so. Chichester did so successfully but only to a minimal degree and their new Local Plan seeks to put forward circumstances around infrastructure as a reason for lower housing numbers.

- 4.7 The consultation does include some limited detail on what might be considered when assessing whether a plan can meet all of the housing need. The principal matters being where it is demonstrated that it can only be met by building at densities significantly out of character with the existing area. There is very little other guidance on what might be accepted as 'exceptional circumstances' and/or 'constraints'.
- 4.8 A LPA can propose a plan with a housing requirement that is below their local housing need figure, so long as proposals are evidenced, the plan makes appropriate and effective use of land, and where all other reasonable options to meet housing need have been considered. This could well result in endless debate at examinations, especially when the Government are proposing to change the test of soundness that a plan does not have to be justified.
- 4.9 The consultation again seeks to make defining housing requirements easier and quicker. However, this was also the aim when the Standard Housing Methodology was introduced.
- 4.10 For Arun, this proposed change may have some significant implications. Equally, it may be virtually no change at all. Far more detail is going to be required on what are going to be accepted as genuine constraints and what evidence is going to be accepted by examiners.

Presumption in Favours and Up to Date Plans

- 4.11 The Presumption in Favour of Sustainable Development remains but with some minor changes. An additional sub-point (iii) allows a new Plan to provide for less than the objectively assessed needs where there is 'clear evidence' of past over-delivery against the housing requirement in a previous Plan.
- 4.12 The main change is that there is no requirement to demonstrate a 5 year housing land supply if the LPA has an up to date Plan for a period of 5 years from the date of adoption. This would remove the requirement to demonstrate an adequate supply every year. It also proposes removing the requirement to include a buffer in any calculation of housing land supply.
- 4.13 Arun's Local Plan is also 5 years old in July 2023.
- 4.14 In addition, the 'presumption in favour' set out in Paragraph 11 now no longer applies if an adopted Neighbourhood Plan is in place and is less than 5 years old (previously it had to be less than 2 years old). This is potentially significant because it will mean that many Neighbourhood Plans will benefit from the full weight of a development plan document and be considered 'up to date' because the bar has been lowered on what would be considered to be 'up to date'. This is also now proposed to be the only criteria for a Neighbourhood Plan – previously there were also other criteria that related to housing land supply and Housing Delivery Test results which are proposed to be deleted.
- 4.15 Proposed amendments to the Housing Delivery Test triggers mean that the tilted balance would still apply when the measurement figure falls below 75%. However, the current requirement to apply a 20% buffer when calculating a five

year housing land supply if delivery over the past three years has fallen below 85% of the housing requirement has been removed.

- 4.16 There is also a caveat proposed at new Footnote 49 whereby the tilted balance is not applicable if permissions have been granted for homes in excess of 115% of the authority's housing requirement over the applicable Housing Delivery Test period. This is referred to as the 'permissions-based test' and may be beneficial to Arun in the future (when an up to date Plan is adopted) because of the substantial number of dwellings that have planning permission in the District.
- 4.17 The presumption in favour can be triggered through either the 5 year HLS or the HDT results, so LPA's need to satisfy both of these. For example, Arun may be able to satisfy the revised HDT results due to the high number of planning permissions granted but it would not (after July 2023) be able to demonstrate a 5 year HLS.
- 4.18 Generally, the proposed changes will go some way to ensuring that up to date Plans are afforded more weight and that, once produced, they are effective and deliverable. This has been a significant issue for the Plan adopted in 2018 with the current framework of national planning policies. These changes may result in LPA's being able to defend speculative applications and appeals that run counter to Plans when a future Local Plan is adopted.
- 4.19 For Arun, there are going to be limited changes as a result of this for the Local Plan because it will be more than 5 years old. However, there are many Neighbourhood Plans that are less than 5 years old where the weight of these will be increased. It remains to be seen whether Inspectors will give these Plans sufficient weight at appeals to dismiss appeals. This change is likely to result in more interest in the preparation of Neighbourhood Plans from the development industry and more evidence submitted in respect of Neighbourhood Plan housing numbers.

Test of Soundness

- 4.20 The 'justified' test of soundness for examining Local Plans is also to be removed (Para 35), which would reduce the amount of evidence required of LPAs during the plan-making process. Local Plans only need to meet the area's objectively assessed needs 'as far as possible'.
- 4.21 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. Although authorities would still need to produce evidence to inform and explain their plan, and to satisfy requirements for environmental assessment, removing the explicit test that plans are 'justified' is intended to allow a proportionate approach to their examination.
- 4.22 There is an emphasis on speeding up plan making in the changes. But there is also increased encouragement for consultation. The Bill includes measures to require locally prepared plans to be prepared to a swift two-year time frame whilst increasing the amount of community consultation undertaken within that process.

4.23 Again, far more detail is required on how high the bar will be compared to how high the bar for soundness currently is. It is impossible to come to a conclusion on this on the basis of what is being consulted upon.

Build Out Rates

4.24 The Government states ‘We are keen to explore whether past irresponsible planning behaviour should be taken into account when applying for planning permission. This would ensure bad developers cannot continue to play the planning system, helping to strengthen local communities’ trust in it. One potential option is to allow LPA’s to decline to determine applications submitted by developers who have a poor track record or where build out has been too slow (though there is no definition of what ‘too slow’ might be).

4.25 Housebuilders will be required to formally notify local authorities, via a Development Commencement Notice (DCN), when they commence development. Furthermore, housing developers will be required to report annually to local authorities on their actual delivery of housing against a proposed trajectory that they submit on commencing a scheme for which they have permission. Finally, local planning authorities will have discretion to decide whether to entertain future planning applications made by developers who fail to build out earlier permissions granted on the same land.

4.26 Three specific measures are included within the consultation.

- a) We (the Government) will publish data on developers of sites over a certain size in cases where they fail to build out according to their commitments.
- b) 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).
- c) The National Planning Policy Framework will highlight that delivery can be 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.

4.27 Build out rates has been a significant issue in Arun because it is not the number of dwellings that have permission that is the issue; it’s how fast they are being built. It is considered that these changes may potentially be positive if they come into force but there is a great deal of doubt on how practical some of these measures are and whether they will ultimately be taken forward.

Older Persons Housing

4.28 The proposed changes seek to ensure that there is a specific expectation that the needs of older people are met, particular regard is given to retirement housing, housing-with-care and care homes, which are important typologies of housing that can help support our ageing population. Members will be aware that Arun already has guidance on this matter, and it seeks to include such housing on larger scale development.

Climate Change

- 4.29 On climate change, Chapter 14 proposes to attribute greater weight to energy efficiency improvements in existing buildings and there is also increased support for applications for the repowering and life-extension of existing renewable sites.
- 4.30 The proposed consultation does not add anything new in respect of protecting the natural environment. Further guidance on nature recovery strategies is said to be forthcoming. Further reviews of the NPPF on this subject are promised as part of the formulation of National Development Management Policies.
- 4.31 With respect to reducing the impact of the built environment on the climate, it is intended that a full review of the NPPF will be undertaken following the Royal Assent of the Net Zero Bill. This is likely to result in changes to the NPPF that will reflect the government's Transport Decarbonisation Plan and a proposed new suite of National Development Management Policies, as well as building on the work undertaken within the Future Homes and Future Buildings Standards.

Food Security

- 4.32 The Government state that 'we are consulting on specific changes to make sure that the food production value of land is reflected in planning decisions that we propose will take effect from spring 2023'. They are also seeking 'initial views on increasing the consideration given to the highest value farmland used for food production, in the Framework for both plans and decision making.'
- 4.33 The only suggested change in the NPPF is to Footnote 67 below.

67. Where significant development of agricultural land is demonstrated to be necessary, areas of poorer quality land should be preferred to those of a higher quality. The availability of agricultural land used for food production should be considered, alongside the other policies in this Framework, when deciding what sites are most appropriate for development.

- 4.34 No additional comments or proposals are included within the consultation.

Duty to Co-operate

- 4.35 Duty to co-operate is proposed to be removed and replaced with an "alignment policy" as part of a future revised NPPF. "*Further consultation on what should constitute the alignment policy will be undertaken. In some cases, there is good co-operation between such authorities, but we would like to hear views on how such adjoining authorities should consider their role in meeting the needs of the "core" town or city.*"
- 4.36 Again, it remains to be seen how high the alignment policy bar will be set relative to the Duty to Co-operate bar and far more details will be required.

National Development Management Policies

- 4.37 These are intended to save plan-makers from having to repeat nationally important policies in their own plans, so that plans can be quicker to produce and focus on locally relevant policies. The Government are proposing that National Development Management Policies are set out separately from the National

Planning Policy Framework, which would be re-focused on principles for plan-making.

4.38 These would be given the same weight in certain planning decisions as policies in local plans, neighbourhood plans and other statutory plans.

4.39 These may be positive in making Plans more focussed. Equally, they may remove the ability for locally specific policies on certain topics.

Transitional Arrangements

4.40 The reformed system is due to be implemented in late 2024. There will be a requirement for local planning authorities to start work on new plans by, at the latest, 5 years after adoption of their previous plan, and to adopt that new plan within 30 months. Authorities that have prepared a local plan which is more than 5 years old when the new system goes live will be required to begin preparing a new style local plan, spatial development strategy or minerals and waste plan straight away.

4.41 Details of a specific date will be important because the consultation states 'we also intend to set out that plans that will become more than 5 years old during the first 30 months of the new system (i.e. while the local planning authority is preparing their new plan), will continue to be considered 'up-to-date' for decision-making purposes for 30 months after the new system starts.' The Arun Local Plan is 5 years old in July 2023 but there are many Neighbourhood Plans that are more recent.

Conclusions

4.42 The new proposed NPPF is not a significant re-draft but does contain certain focussed additions that represent a clear steer from the Government to align the NPPF with the Levelling Up and Regeneration Bill (LURB).

4.43 The Government consider that the amendments will ensure that '*Plans will be produced more quickly and the content of plans will be simplified. Plans will also enjoy greater weight in the decision-making process, limiting the circumstances when unplanned development could be approved.*' It is difficult to conclude with certainty that this will be the case from what has been published. As always, the devil will be in the detail and members will recall how 'Localism' (when Councils were told that they could choose their own housing numbers) evolved into the current planning system where development plans are not afforded a great deal of protection and the presumption in favour results in substantial speculative developments that Council's are unable to resist.

4.44 Further consultation is scheduled to take place on the rest of the NPPF and National Development Management Policies (once the LURB has been passed) from Spring 2023 with further updates to the NPPF to arrive later in the year.

5. CONSULTATION

5.1. None

6. OPTIONS / ALTERNATIVES CONSIDERED

6.1. None

7. COMMENTS BY THE INTERIM GROUP HEAD OF FINANCE/SECTION 151 OFFICER

7.1. No comments as there are no financial implications at this time.

8. RISK ASSESSMENT CONSIDERATIONS

8.1. n/a

9. COMMENTS OF THE GROUP HEAD OF LAW AND GOVERNANCE & MONITORING OFFICER

9.1. There are no direct legal or governance implications associated with this report.

10. HUMAN RESOURCES IMPACT

10.1. n/a

11. HEALTH & SAFETY IMPACT

11.1. n/a

12. PROPERTY & ESTATES IMPACT

12.1. n/a

13. EQUALITIES IMPACT ASSESSMENT (EIA) / SOCIAL VALUE

13.1. n/a

14. CLIMATE CHANGE & ENVIRONMENTAL IMPACT/SOCIAL VALUE

14.1. In order to protect the environment within Arun and reduce impacts on climate change it will be imperative to ensure any changes within the NPPF/National Development Management Policies are followed and adhered to

15. CRIME AND DISORDER REDUCTION IMPACT

15.1. n/a

16. HUMAN RIGHTS IMPACT

16.1. n/a

17. FREEDOM OF INFORMATION / DATA PROTECTION CONSIDERATIONS

17.1. n/a

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BACKGROUND DOCUMENTS:

www.gov.uk/government/consultations/levelling-up-and-regeneration-bill-reforms-to-national-planning-policy