

Arun District Council

REPORT TO:	Planning Policy Committee 30 January 2023
SUBJECT:	Revised National Planning Policy Framework
LEAD OFFICER:	Neil Crowther, Group Head of Planning
LEAD MEMBER:	Councillor Martin Lury – Planning Policy Committee
WARDS:	All
CORPORATE PRIORITY / POLICY CONTEXT / CORPORATE VISION: The recommendations supports:- <ul style="list-style-type: none">• Improve the Wellbeing of Arun;• Delivering the right homes in the right places.	
DIRECTORATE POLICY CONTEXT: 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.	
FINANCIAL SUMMARY: There are no financial implications at this time.	

1. PURPOSE OF REPORT

- 1.1. To present the revised the National Planning Policy Framework (NPPF) that was published on 19 December 2023.

2. RECOMMENDATIONS

That Planning Policy Committee note the contents of the revised NPPF.

3. EXECUTIVE SUMMARY

- 3.1. A revised NPPF was published on 19 December 2023. This followed a consultation between Dec 2022 – March 2023. The revised NPPF was accompanied by a Written Ministerial Statement (WMS).
- 3.2. A report was presented to Planning Policy Committee in February 2023 regarding the consultation on the proposed changes to the NPPF.

4. DETAIL

- 4.1 Members may recall that the report to the Committee in February 2023 stated that the contents of the consultation were disappointing in that they failed to reflect a lot of the public statements that were being made by Ministers prior to the consultation. Now that the new NPPF has been published, the actual contents of the revised Government policy are far removed from those original statements and contain fewer changes that will assist local authorities than were in the consultation document.
- 4.2 This report will set out some of the main changes and their implications for Arun. It will also set out what hasn't been included that was contained in the original consultation.

Main Changes

1. The consultation proposed to include text in the new NPPF around local authorities being able to use the reason that developments are uncharacteristically dense as a means of outweighing the presumption in favour of sustainable development in Paragraph 11 and where a Local Plan could or should meet their local Housing need. The inclusion of this would have potentially given the council some additional tools with which to refuse unacceptable development and could have been a reason for pursuing a lower housing target in a future Local Plan. Regrettably, this has not been included in the new NPPF. Instead, only a new paragraph 130 has been included that refers to inappropriate densities in general when Plan making.
2. The consultation proposed to allow councils to take into account past over-delivery of housing into account when formulating Local Plan housing targets. This has not been included within the revised NPPF.
3. The consultation included a proposal to amend the test of soundness when adopting a Local Plan. This indicated that the bar may be lowered for adoption in an attempt to speed up Plan making. This has not been included within the revised NPPF.
4. A new paragraph (70) is included that promotes small and medium sized sites with a target of 10% of housing requirements coming forward from this source.
5. The consultation proposed to remove the requirement to produce an annual housing land supply statement and essentially fix a 5-year land supply for 5 years from the date of adoption. This has been included within the NPPF and results in over 90 local authorities now not having to demonstrate a 5-year supply of housing land as they have adopted Plans that are less than 5 years old.

6. There are other proposals that relate to authorities where their Plans are at a more advanced stage (Regulation 18 or 19). In those circumstances, a Housing Land Supply (HLS) of only 4 years needs to be demonstrated for a 2-year period to allow for Plans to be adopted. As the Plan making process at Arun has been paused for over two years (since October 2021) it has not reached an advanced stage.

The NPPF does make a significant change in that those authorities with advanced Plans could (in theory) be afforded up to 7 years of protection with the new NPPF (2 years to adopt a Plan and 5 years after adoption). Arun is unable to benefit from this due to the lengthy pause in Plan making.

7. The consultation proposed to remove the requirement to demonstrate a 'buffer' of 10% or 25% over and above the 5-year requirement. This has not been fully included within the NPPF. The only instance where a buffer is not required to be added is where there is an up-to-date Plan (within 5 years). Where there is not an up-to-date Plan and the Housing Delivery Test thresholds are not met, a 20% buffer has been retained. This is the current situation.
8. The previous paragraph 14 of the NPPF stated that the presumption in favour would be outweighed in certain circumstances that related to Neighbourhood Plans. These included the Plan being made within 2 years, where there were allocated housing sites and where housing land supply was over 3 years. The new paragraph 14 is significantly different in that it states that the presumption is likely to be outweighed where there is conflict with a Neighbourhood Plan that has been made within 5 years and contains housing allocations to meet its identified need. The requirement for a 3+ year housing land supply has been removed. This change appears to significantly strengthen the weight to be given to Neighbourhood Plans, but it will also likely result in there being greater challenge in the Plan making process around what each Plan should include as a requirement. There is a new obligation to provide housing requirement figures to neighbourhood areas and the Committee will be asked to consider these at a future meeting.

On the face of it, this change is significant and would indicate that it will be more difficult to obtain planning permission for development on sites outside of built-up area boundaries outside of the plan making process. However, the proof of the pudding will be in the eating when this is tested at appeals because the status of Neighbourhood Plans has been promoted with fanfare previously only to find that decision-making at appeal affording them very little weight.

9. The new NPPF confirms that the standard method for calculating housing need is an 'advisory starting point'. As set out in the February 2023 report, this is not new, and the figures have been a 'starting point' for over 10 years and have never been mandatory. However, they have always been applied very strictly by Inspectors and moving away from them has been exceptionally difficult. The Ministerial Statement states that the NPPF provides clarity on the exceptional circumstances required to deviate from the standard housing method. However, the only additional circumstance contained within the NPPF (para 60) relates to demographics. Other factors that must already be considered are matters such as strategic environmental constraints. The WMS re-confirms that 'robust evidence' is required to deviate from the standard method.
10. Much of the public statements from government on the new NPPF have related to 'significant changes' in respect of agricultural land and an apparent increased strength on resisting the loss of these areas to development. The only notable addition to the NPPF is in the form of a footnote (62) that simply states that areas of poorer agricultural land quality will be preferred. The loss of agricultural land was already a consideration in determining applications and allocating sites and there is no substantial change in the NPPF. This change was identified within the consultation and officers highlighted the weakness of this in the February 2023 report to Committee.
11. The consultation included reference to evidence of sufficient deliverable permissions that would have resulted in Council's not being affected by the Housing Delivery Test sanctions. This has not been included within the NPPF.
12. The consultation included proposals for sanctions on applicants because of 'irresponsible planning behaviour'. This included where build out rates were not adhered to. The February 2023 report raised doubts around whether this would ever be taken forward and the NPPF does not include this. The Government has stated that it will consult further on the issue of build outs in 2024.
13. The NPPF further emphasises design quality in Section 12 with some very minor changes to the text. However, the previous version of the NPPF similarly emphasises design quality but the council has experience of this issue being given very little weight in appeal decisions.
14. An addition to paragraph 70 is included (b). This now states that policies and decisions should support community led development for housing and self and custom build housing. 'Community-led housing' is defined as a not-for-profit organisation set up to meet the housing needs of its members.

Summary of Other NPPF Changes

- 4.3 It is noteworthy that there has been a significant shift in messages from government over the past 12 months. Prior to the consultation, the headline comments were around communities taking control and being able to say no to high housing numbers. In December 2022, the government's stated headline for the proposed changes to the planning system was to put 'communities at the heart of the planning system'. It also stated that the changes would give 'local people a greater say on where and when not to place new development'.

- 4.4 The written Ministerial Statement issued with the NPPF now very much talks about accelerating the delivery of 'more homes', 'developers having certainty' and there being a 'responsibility on local government to deliver'.
- 4.5 Overall, these changes are largely unrecognisable from the original statements just over 12 months ago when the Ministerial Statements were that democratically adopted Plans had been overridden by legislation and that developers needed to be more pro-active in delivering infrastructure.
- 4.6 A significant issue for Arun is the fact that there are over 6,000 dwellings with planning permission but the Council's position on Housing Land Supply is exceptionally poor. The result is that the control of planning decisions is largely being taken out of our hands, and we are left with numerous large unacceptable development sites being allowed at appeal. Housing on inappropriate sites has been granted permission solely based on the land supply position.
- 4.7 When the original changes to the planning system were proposed at the end of 2022 the government made the following statement

'Alongside measures in the Bill to tackle slow build out rates by developers, the government will also consider new financial penalties for companies failing to deliver housing despite having planning approval and give councils powers to refuse further permission across their area.'

- 4.8 This suggested change was very much welcomed as a way of hopefully speeding up delivery in Arun and to improve the housing land supply position. However, just over 12 months later and none of these changes are included within the new NPPF.
- 4.9 Generally, the proposed changes are very disappointing in respect of other significant issues such as climate change, energy efficiency and agricultural land. The new NPPF does not take the opportunity to require higher standards and actually ensures the opposite - that council's do not seek to set to higher targets.

Other Current Issues

- 4.10 Whilst not part of the changes to the NPPF, the government have included a number of additional noteworthy matters within their statements on the changes as well as when the new fees were introduced in November 2023.
- 4.11 The first of these relates to the 'planning guarantee'. This is a specific time period in which applicants should expect to have received a decision on all applications. Failure to issue a decision results in the requirement to refund application fees unless extensions of time are mutually agreed. Previously this period was 26 weeks for all applications. Very often, decisions are unable to be made within this time period for the major applications (if significant issues arise or if a complex legal agreement is required). In these instances, extensions of time are used (where appropriate) to 'agree' that the determination period can be extended, and this removed the requirement to refund the application fee.

- 4.12 The government have now reduced the planning guarantee period to 16 weeks for non-major applications. Currently, this change can be dealt with through the agreement of extensions of time with applicants. However, the government have announced that they are considering limiting the use of extensions of time on minor applications. If this happens, in combination with a 16-week planning guarantee, the consequence will be that officers will rarely be able to negotiate improvements and refusals of permission on technical issues will therefore become far more common. This will assist neither the council nor the applicants it will add to time and workload.
- 4.13 We have been trying to move away from Extensions of Time for a long time. It appears that the government are now placing more emphasis on not using these and the council will very likely have to approach decision making on applications in a different way. A future report to Planning Committee will set the implications of this out in more detail.
- 4.14 The second of these issues relates to decisions of Planning Committee. The Planning Inspectorate have been asked to start reporting to government on cases where a successful appeal is made against a Planning Committee decision and the final decision is the same as the original officer recommendation. The Written Ministerial Statements states;

‘The overturning of a recommendation made by a professional and specialist officer should be rare and infrequent – such that I have reminded the inspectorate that where it cannot find reasonable grounds for the committee having overturned the officer’s recommendation, it should consider awarding costs to the appellant.’

No further details or comments are made around what might be done with this data.

- 4.15 The government have now stated that Local Plan’s should not go beyond the minimum energy efficiency standards (level 4 Code for Sustainable Homes). They state that there will be changes to Building Regulations in 2025 that will result in homes being ‘net-zero ready’ (not that they will be net-zero). This results in councils being discouraged from setting ambitious energy efficiency standards which is disappointing given that Arun have already declared a Climate Emergency (January 2020).
- 4.16 Finally, it is worthy of note that the council applied for £100,000 through the national Planning Skills Delivery Fund to assist with capacity in processing discharge of drainage proposals and to assist in master planning on major sites. Sadly, our application was unsuccessful, and the council received zero funding from the overall pot of £29mil.

5. CONSULTATION

- 5.1. None

6. OPTIONS / ALTERNATIVES CONSIDERED

6.1. None

7. COMMENTS BY THE INTERIM GROUP HEAD OF FINANCE AND 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

CONTACT OFFICER:

Name: Neil Crowther
Job Title: Group Head of Planning
Contact Number: 01903 737839

BACKGROUND DOCUMENTS: None