

# NORTH HERTFORDSHIRE DISTRICT COUNCIL

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9 May 2018

Draft revised National Planning Policy Framework Consultation, Ministry of Housing, Communities & Local Government

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Dear Sir / Madam,

## **Draft revised National Planning Policy Framework**

Thank-you for the opportunity to comment on the proposed revisions to the National Planning Policy Framework (NPPF). North Hertfordshire District Council (NHDC) has participated in the production of and supports the submissions made by the Hertfordshire Infrastructure & Planning Panel (HIPP) on behalf of Hertfordshire County Council and the 10 constituent District and Borough authorities.

NHDC's own further comments are provided below. Only those specific questions to which the Council wishes to respond are identified.

### **Q1 Do you have any comments on the text of Chapter 1?**

The amendments seem sensible on the whole. However, the proliferation of 'other material considerations' is diluting the original intention of the NPPF to streamline Government planning guidance into a single document.

Amending Planning Practice Guidance to maintain an up-to-date list of relevant statements (with links) that are considered material in the context of the NPPF would be helpful in this regard.

### **Q2 Do you agree with the changes to the sustainable development objectives and the presumption in favour of sustainable development?**

Removing references to 'quality of life' and 'improving quality of life' weakens the protection provided to human health and well being within the planning regime.

The intentions of the amendments to the presumption in favour of sustainable development are broadly supported. However, some of the proposed wording is open to interpretation and will require resolution through appeals and / or the courts.

This is counter to the NPPF's own guidance (as proposed to be amended) that our own Plans should "contain policies that are clearly written and unambiguous, so it is evident how a decision maker should react" (Paragraph 16(d)). In particular:

- 11(b)(i) – the meaning of a "strong reason" for restricting development in plan-making terms is unclear and there seems no particular reason for differentiating this from the "clear reason" required in 11(d)(i) to resist planning applications. It is clearly the intention that these phrases have different meanings otherwise different words would not have been used;
- 11(d) – similarly "the policies which are most important for determining the application" will be subject to lengthy debate in s.78 appeals. It is also unclear how the policies which are 'not the most important' for determining the application would apply in such cases.

**Q4 Do you have any other comments on the text of Chapter 2, including the approach to providing additional certainty for neighbourhood plans in some circumstances?**

The introduction at Paragraph 14(b) of a more generous threshold for land supply in areas with neighbourhood plans will result in two-tier planning policy in authorities with incomplete neighbourhood plan coverage.

If paragraph 75 (on delivery) is engaged, areas with neighbourhood plans will enjoy stronger protections than areas without neighbourhood plans. Areas with no neighbourhood plan will come under significant pressure from speculative applications seeking to benefit from the provisions of paragraph 11.

If the intention is to incentivise neighbourhood-plan making and / or the proactive identification of sites through neighbourhood plans, this does not seem to be the best means of achieving it.

**Q5 Do you agree with the further changes proposed to the tests of soundness, and to the other changes of policy in this chapter that have not already been consulted on?**

**Q6 Do you have any other comments on the text of Chapter 3?**

The definition of strategic policies in paragraphs 20 to 25 is broadly welcomed. However, this does not necessarily clearly resolve the relevant basic conditions test imposed upon neighbourhood plans. This requires them to be in general conformity with the strategic policies of the local plan.

Current Planning Practice Guidance states that

*The basic condition addresses strategic policies no matter where they appear in the development plan. It does not presume that every policy in a Local Plan is strategic or that the only policies that are strategic are labelled as such.*

Although the proposed revisions to Planning Practice Guidance appear to delete this advice, it seems likely that this wider interpretation may still be open to lengthy and expensive debate through examinations, appeals and / or the courts.

Failing to mention 'reducing pollution' within point (f) of Paragraph 20 is an error that should be corrected.

The review mechanisms for Local Plans in paragraph 23 use somewhat torturous language. They require only a review (of existing policies) to determine whether a review (of the plan) is required within the five-year period. There is no subsequent guidance on:

- What happens if an authority determines through its review that no review of the plan is required; or
- The expected timescales to complete any subsequent review of the plan.

Paragraph 24 on the content of strategic plans is unhelpful requiring that they should allocate sites to meet strategic priorities unless they shouldn't.

Paragraphs 25 and 33 which introduce the new requirement for Plan evidence to be 'focused tightly' are welcome. However, this needs to be backed up in practice; There is currently significant variation in the scope and depth of Local Plan examinations and the scope and depth of inquiry and evidence required on individual matters. Although it is recognised that there will always be some 'individualisation' of examinations, this should be within more closely defined parameters rather than open ended as it can significantly impact upon the local planning authority's costs and resources.

The approach to developer contributions at Paragraph 34 seems reasonable. However this relies on the timely provision of information from partner authorities which isn't always achieved in practice. The proposed amendments to the decision-making guidance on viability are likely to result in increased scrutiny of this matter at the plan-making stage.

The amendments to the 'justified' test to be 'an appropriate strategy' at Paragraph 36(b) are welcomed. It allows for judgement to be exercised by the planning authority.

**Q9 What would be the benefits of going further and mandating the use of review mechanisms to capture increases in the value of a large or multi-phased development?**

The use of reviews is broadly supported. The Council is proposing a number of strategic sites which will be developed over an extended time period. There is overlap here with the proposed amendments to CiL to take existing use values into account.

**Q10 Do you have any comments on the text of Chapter 4?**

The continued emphasis on pre-application engagement is welcomed. Greater emphasis should be placed on enforcement and this should be reflected in greater availability of resources. Appropriate powers should also be made available to local planning authorities to enable them to deliver more effective enforcement.

**Q11 What are your views on the most appropriate combination of policy requirements to ensure that a suitable proportion of land for homes comes forward as small or medium sized sites?**

The Council recognises and supports the role of small and medium sized builders in housing delivery in the District. However, these requirements are unduly onerous. The current Planning Practice Guidance contains a sensible threshold of 5 units for sites to be included in land availability assessments and, by extension, plans.

Sites below this threshold have historically come forward as 'windfall' development through the normal operation of general planning policies. In many authorities small windfall sites are a consistent and reliable source of housing supply. Bringing these sites within the remit of the plan-making process will have wholly disproportionate burdens in terms of their identification, assessment and examination.

There appears to be no specific evidence supporting the 20% requirement either as a general principle or in demonstrating that this is the most appropriate or realistic percentage to apply.

**Q12 Do you agree with the application of the presumption in favour of sustainable development where delivery is below 75% of the housing required from 2020?**

No. This approach continues the error of assessing local authorities on historic circumstances and / or the delivery performance of third parties over whom they can only exert limited control.

North Hertfordshire is aiming to adopt a new Local Plan which meets objectively assessed needs in full and make positive contributions to the needs of other authorities under the Duty to Co-operate. This should be sufficient to secure an appropriate level of protection against further speculative development. If it is to be retained, the Delivery Test needs refinement to take account of local circumstances. Our Plan places a heavy reliance on large-scale strategic sites which take time to deliver. These sites, and many others in the plan, are currently in the Green Belt.

The tightly drawn nature of current Green Belt boundaries has constrained past delivery meaning the District's housing delivery is starting from a low base but anticipated to accelerate. Broader economic cycles can also detrimentally impact upon housing delivery.

**Q13 Do you agree with the new policy on exception sites for entry-level homes?**

No. The overall need for homes (including affordable housing) and the strategy for delivering them should have been adequately tested through the Local Plan process.

This includes determining the most appropriate approach to development in settlements and their future built extent. This policy undermines the plan-led system by providing a blanket-exemption on all land adjacent to existing settlements. It also unnecessarily duplicates or overlaps with the existing 'rural exceptions' approach to housing beyond defined settlements or boundaries.

The glossary does not contain any standalone definition of entry level homes. Paragraph 72(a) makes reference to discounted sale and affordable rent though it is unclear if this is the entirety of 'entry level homes'. 72(a) also only requires 'a high proportion of' such homes which suggests that an element of market housing would also be acceptable on these sites. A 'high proportion' is open to interpretation. Homes which are sold subject to a modest discount below market rates are unlikely to be affordable in any meaningful sense in North Hertfordshire.

**Q14 Do you have any other comments on the text of Chapter 5?**

Paragraph 61 makes reference to the standard method for determining the minimum number of homes. For North Hertfordshire the standard methodology appears likely to increase the housing requirement to levels that are near impossible to deliver in

practice. This is before any unmet needs from surrounding authorities are taken into account.

The affordable housing reduction on brownfield land in paragraph 64 seems unnecessary. Where sites are viably able to support affordable housing they should do so. The most appropriate levels of affordable housing will be determined through the proposed viability measures and the plan-making process.

The 10% affordable housing ownership requirement in paragraph 65 is superfluous. There are already ample provisions in the NPPF to make provision for identified affordable housing needs subject to viability considerations. These will also ensure that the most appropriate tenure split of affordable housing provision is considered.

The District Council is disappointed with the proposed deletion from Paragraph 73 of the requirement that larger scale developments follow “garden city principles”. North Hertfordshire is home to the world’s first garden city at Letchworth, which remains a world-renowned exemplar of good planning.

**Q16 Do you have any other comments on the text of chapter 6?**

**Q18 Do you have any other comments on the text of Chapter 7?**

Both of these sections are very short, especially when compared to the amount of the NPPF devoted to housing and its delivery.

The inclusion of ‘a poor environment’ as a potential barrier to investment that should be removed is a positive and provides a potentially useful lever to promote environmental improvement and with it improved public health and well being.

The change proposed in paragraph 86(d) to reduce the need to meet retail needs to a ten-year period (rather than the current 15) is welcomed as retail forecasts are notoriously unreliable over the long term.

**Q23 Do you have any other comments on the text of Chapter 9?**

Criteria (b) and (d) within paragraph 103 are good additions with the potential to improve the quality of the environment and public health.

Being clear about the link between emissions from transport and the impact on air quality and public health within (f) of paragraph 103 is welcomed.

The emphasis on the ‘design’ of developments to ‘enable charging of plug-in and other ULEV in safe, accessible and convenient locations’ (e) within paragraph 110 is a beneficial addition.

**Q26 Do you agree with the proposed approach to employing minimum density standards where there is a shortage of land for meeting identified housing needs?**

No. Land supply in NHDC is constrained. The currently emerging Plan recognises that it makes maximum use of reasonable and available development sites at the time of writing. We also acknowledge that, in the longer term, continual incremental additions to existing settlements may not be the best solution.

Future plan reviews are likely to see NHDC come under significant pressure to accommodate both its own housing requirements as well as unmet needs from

surrounding authorities potentially including (but not necessarily limited to) Stevenage, Luton and Welwyn Hatfield.

This policy is likely to lead to pressures for town and village 'cramming' and make it more difficult to resist developments which might not be appropriate in terms of local character or vernacular. It reverts towards the prescribed densities formerly contained in national guidance. This undermines design-led approaches to development.

**Q30 Do you agree with the proposed changes to enable greater use of brownfield land for housing in the Green Belt, and to provide for the other forms of development that are 'not inappropriate' in the Green Belt?**

**Q31 Do you have any other comments on the text of Chapter 13?**

These changes are broadly welcomed but care needs to be taken that this does not encourage development in otherwise unsustainable locations. Notwithstanding this, this approach will be of value in promoting the remediation of contaminated land that could be having wider adverse environmental and public health impacts.

The amendments to the *exceptional circumstances* test requiring 'all other reasonable options' to be examined do not fit neatly with the proposed amendments to the revised soundness tests in Paragraph 36 which would require the development strategy to be 'appropriate' rather than 'the most appropriate'.

The amendments proposed in Paragraphs 144 and 145 to also encompass the change of use of land for outdoor sport etc. is welcomed. This corrects an anomaly in the original NPPF whereby built facilities could be appropriate development, but the associated change of use inappropriate.

**Q32 Do you have any comments on the text of Chapter 14?**

There is a need to address the growth of biomass boilers or similar decentralised sources of heating and energy supply, to ensure that a lower carbon, higher percentage of renewable energy supply does not come at the expense of increased particulate matter and nitrogen dioxide emissions.

**Q35 Do you have any other comments on the text of Chapter 15?**

The specific mention of air quality, and the stated aim of 'helping to improve local environmental conditions' (albeit caveated by 'wherever possible'), is a positive inclusion within criterion (e) of paragraph 168.

Paragraphs 176 and 177 appropriately transpose paragraphs 120 and 121 of the current NPPF. Paragraph 179 is an appropriate update for paragraph 124 in the current NPPF.

**Q40 Do you agree with the proposed transitional arrangements?**

We would reiterate our previous comments in relation to the housing delivery test and the 'mismatch' in approach where there is a neighbourhood plan.

**Q43 Do you have any comments on the glossary?**

Yes. The Council objects to the proposed amendments to the definition of affordable housing which will harm our ability to secure truly affordable accommodation to meet locally identified needs.

The number of products now falling under the definition of affordable housing dilutes, rather than strengthens, the offer. It includes products which will do little to address needs having regard to local affordability.

The revised definition includes Build to Rent which might not be owned or managed by a registered provider. This could lead to issues in securing appropriate legal agreements and or provisions relating to re-lets.

As per our response to Question 13, discounted market homes will not be affordable in any meaningful sense within the District. There are also significant difficulties associated with managing discounted market homes in terms of ensuring re-sales are for future eligible households. This type of housing doesn't work as an affordable home ownership product in North Hertfordshire

I trust these comments are of assistance and will be given due consideration prior to the publication of the revised NPPF later in the year. If you require any further information, please contact the named officer using the details provided at the top of this letter.

Yours sincerely

A handwritten signature in black ink, appearing to read 'D Levett', with a long horizontal flourish extending to the right.

Cllr David Levett  
Cabinet Member for Planning & Enterprise