



CABINET – 1st MAY 2018

**NATIONAL PLANNING POLICY FRAMEWORK CONSULTATION
PROPOSALS AND SUPPORTING HOUSING DELIVERY THROUGH
DEVELOPER CONTRIBUTIONS – CONSULTATION RESPONSE**

REPORT OF THE CHIEF EXECUTIVE

PART A

Purpose of the Report

1. The purpose of this report is to seek the Cabinet's approval of the County Council's response to the Ministry of Housing, Communities and Local Government's National Planning Policy Framework consultation proposals and Supporting Housing Delivery through Developer Contributions consultation.

Recommendation

2. It is recommended that the key comments as set out in the report be approved as the Council's response to the Government consultations on
 - (i) the National Planning Policy Framework (paragraphs 17 to 58),
 - (ii) "Supporting housing delivery through developer contributions" (paragraphs 59 to 63),

subject to the Chief Executive, following consultation with the Leader of the Council, being authorised to make minor amendments and adding detail to the above responses prior to their submission to Government by 10th May 2018.

Reasons for Recommendations

3. To respond to the Government consultation seeking views on the draft text of the National Planning Policy Framework (NPPF) and proposed reforms to the system of developer contributions.
4. The County Council is working with Local Planning Authorities (LPAs) across Leicester and Leicestershire to develop a Strategic Growth Plan (SGP) which will guide housing and infrastructure requirements across the Housing Market Area (HMA). This response has been written to ensure that the robust and collaborative work already undertaken is not undermined, but benefits from any changes to a NPPF.

5. It is imperative that any reforms to the system of developer contributions ensures that developers are clear about their commitments, that local authorities are empowered to hold them to account and communities needs are met.

Timetable for Decisions (including Scrutiny)

6. Subject to the Cabinet's approval, an officer response to both consultations will be submitted before the closing date of 10th May 2018.

Policy Framework and Previous Decisions

7. In June 2016, the Cabinet approved the Strategic Growth Statement for consultation. This formed the first part in the development of the SGP.
8. In November 2017 the Cabinet approved the consultation process for the Consultation Draft Strategic Growth Plan. A 12-week consultation period began on 11th January 2018 and, following an extension to the deadline to allow recently published evidence to be taken into account by consultees, is due to close on 10th May. In March 2018, the Cabinet welcomed the Plan as a key, long-term strategy for the future development and prosperity of Leicester and Leicestershire and suggested detailed comments for further consideration before the SGP be approved.
9. In December 2017 the Council approved its new *Strategic Plan 2018-2022: Working together for the benefit of everyone*, which identifies five strategic outcomes including 'Affordable and Quality Homes'.

Resource Implications

10. There are no direct resource implications arising from this report.

Circulation under the Local Issues Alert Procedure

11. None.

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PART B

Background

12. The National Planning Policy Framework (NPPF) sets out the Government are planning policies for England and how these should be applied. It provides a framework within which locally prepared plans for housing and other development can be produced.
13. The revised framework is being consulted on alongside several supporting documents, including 'draft planning practice guidance' and 'the housing delivery test rulebook'. Subject to the outcome of this consultation, the Government intends to publish a final NPPF in Summer 2018.
14. There is also a consultation taking place during the same period on reforming developer contributions to affordable housing and infrastructure through the Supporting Housing Delivery Developer Contributions consultation.

NPPF Consultation

15. The Governments proposed changes to the NPPF draft text are summarised in the Appendix to this report.
16. Detailed below in paragraphs 17 to 58 are the County Council's proposed response to the draft.

Housing Delivery Test

17. A new Housing Delivery Test is proposed: where housing delivery falls below 95 per cent of a local authority's requirement over three years, it will be required to produce an action plan setting out how this will be addressed. Where delivery falls below 75 per cent, the 'presumption in favour of sustainable development' will apply.
18. Whilst the Test will be fully implemented in 2020; the consultation document clarifies that the policy will be introduced this year with a delivery threshold of 25 per cent, stepping up to 45 per cent next year and then 75 per cent in 2020. Additionally, the five-year housing land supply will require a 20 per cent buffer where delivery has been below 85 per cent of the requirement.
19. Clearly the intention here is to put pressure on local planning authorities to ensure new homes are delivered. Local planning authorities are not, however, in control of the whole of the housing delivery process. Whilst LPAs do shape the availability of land through the planning process; they cannot compel developers to build homes. In fact the proposed Test risks reducing the rate of housing delivery and at the same time encourage development in less sustainable locations. For example, a developer could deliberately hold off from building out sites allocated in Local Plans. This would reduce the delivery rate and if it were to fall below the 75% trigger this would open up the opportunity for that same

developer (and others) to secure planning permission on non-allocated sites. This is sometimes characterised as ‘planning by appeal’ as opposed to plan-led decisions about housing provision. The consequence could be even slower delivery on allocated sites which have been subject to the rigours of the site allocation process and have been considered and agreed through the local democratic decision-making process; and increased provision on sites, often smaller and in less sustainable locations, which secure consent on appeal. The County Council urges the Government to reconsider the Test for these reasons and to explore more effective ways of improving the rate of housing delivery.

Achieving sustainable development

20. The County Council is working collaboratively with partners in Leicester and Leicestershire on a Strategic Growth Plan (SGP) which sets out how objectively assessed need (OAN) could be accommodated within the Leicester and Leicestershire Housing Market Area (HMA). The aim is to prepare a bold and ambitious SGP which will establish an agreed strategic planning framework up to 2050.
21. The County Council supports the continued presumption in the NPPF in favour of sustainable development, and the reordering of wording to reflect the way that plans are devised and decision-making is approached in practice.

Plan-making

22. The County Council welcomes the support given to strategic plan-making in the draft NPPF.
23. All partners in Leicester and Leicestershire are currently working towards a Statement of Common Ground and have been making good progress in collaborative working. In March 2017 all nine local authorities approved a ‘Joint Statement of Co-operation’, following the publication of the Housing and Economic Development Needs Assessment (HEDNA) which identified OAN across the HMA. A revision was agreed in November 2017, demonstrating the collaborative approach being taken to resolve future unmet need.
24. However, although the Statement of Common Ground is a strong move in the right direction, the risk still exists that one or more local planning authority could significantly delay or put at risk strategic planning work if they do not sign up to the final plan. This risk is not adequately addressed. The Government should also provide greater clarity on the role of county councils in the production of the Statements.
25. The new approach to viability, which includes more transparency and certainty about what will be expected at the decision-making stage, is welcomed. However, it will inevitably place more burden on statutory consultees, and therefore funding needs to be made available to allow infrastructure providers (such as highway authorities, education authorities and utility providers), to be fully engaged in identifying and costing appropriate infrastructure needs, to ensure that figures included by LPA’s are robust and deliverable.

Decision-making

26. The County Council supports the strengthening of the role of non-statutory and statutory consultees at pre-application stage, and the encouragement of early discussions about infrastructure and affordable housing. However, this will put additional resource pressures on services such as highway authorities, education and utility providers and this will need to be addressed. One option would be to introduce a standard fee for applicants in order to understand how these essential infrastructure requirements can be delivered.
27. Many strategic sites require 'big ticket' infrastructure to make them acceptable, such as new link roads, and these may have marginal viability or not be viable without additional funding. The important role of the Housing Infrastructure Fund (HIF), Growing Places Fund, National Productivity Investment Fund (NPIF) and the Growth and Housing Fund is vital and this needs to be acknowledged with regards to viability for many strategic sites.

Delivering a wide choice of high quality homes

28. The County Council recognises that paragraph (61) introduces a new standard method for the calculation of local housing need, the details of which are set out in the draft national planning guidance published alongside the NPPF.
29. Whilst the new standard method provides a good, and nationally consistent, starting point for deciding future levels of housing provision, the HEDNA has developed OAN figures across the HMA which are broadly consistent with figures generated by the proposed new standard method. The County Council, and its partners, would not wish to see the work undertaken in Leicester and Leicestershire over the past two to three years be substantially delayed by a requirement to restart the plan preparation process using the new standard method in place of the HEDNA. This would seriously undermine the well-advanced partnership work to put in place an ambitious plan for housing and economic growth over the HMA.
30. It is important that the final scale and distribution of housing provision is considered and agreed by partners working at the level of the HMA. There also needs to be greater scope to reflect other 'local factors' such as significant growth in local employment levels, land availability, transport planning and minerals and waste which can be better assessed through collaborative working at HMA level.
31. The County Council supports the expectation that local authorities should provide a housing figure for designated neighbourhood areas. Some Neighbourhood Planning groups involved in the Neighbourhood Planning network in Leicestershire have raised this issue and welcome this change as this will greatly assist communities to progress their Neighbourhood Plan.
32. The County Council is of the view that regardless of site size, suitable infrastructure needs to be central to policy requirements.

33. The County Council is concerned that the proposal to ensure at least 20 percent of sites are half a hectare or less, does not necessarily lead to sites integrating well into the transport network. The cumulative impact of smaller sites has presented challenges for infrastructure delivery, particularly in two tier authority areas and in the absence of the Community Infrastructure Levy (CIL).
34. The County Council supports the new policy in paragraph (72) on the use of exception sites for entry-level homes suitable for first-time buyers where a local need is identified. However, to ensure they remain entry level homes for the future, and hence reinforce the justification for the exception site in the first place, it is considered that restrictions on permitted development should be required. This could also add to the issue created by the cumulative impact of smaller sites.

Building a strong, competitive economy

35. The County Council would like to see the importance of business growth and productivity strengthened even further. The important role that economic factors play in providing a sustainable pattern of development is still understated. House building rates to an extent rely on an increase in employment opportunities, unless it is founded on distance commuting or accommodating those not in employment i.e. the retired.
36. It is therefore important that areas have a suite of aligned plans which support growth including SGPs and supporting Local Plans, transport strategies and the emerging Local Industrial Strategies.
37. With regards to supporting a prosperous rural economy it needs to be acknowledged that sustainable transport measures will not always offer a genuine transport choice in these areas.

Ensuring the vitality of town centres

38. The County Council supports the changes to the NPPF which make it clear that suitable town centre, or edge of centre, sites do not have to be available immediately, as this strengthens the position of these sites when they are in the pipeline but not immediately available.

Promoting healthy and safe communities

39. Whilst the County Council recognises how essential a sufficient choice of school places is to meet the needs of existing and new communities; the funds and resources to undertake the work required by paragraph (95), particularly for pre-applications where there is no certainty that a full application will be submitted, are limited or non-existent.

Promoting sustainable transport

40. Paragraph (110) reflects the importance of giving priority first to pedestrian and cycle movements; and second - so far as possible – to facilitating access to high quality public transport, and appropriate facilities that encourage public transport use. However, this assumes there are high quality public transport services, which is not always the case especially in more rural areas.
41. The County Council welcomes the strengthened focus on promoting sustainable transport, however wider Government policy and funding will be required to reflect this change in practice at a local level.

Supporting high quality communications

42. The proposals are generally positive. However, where the approach stresses that planning authorities should not hinder the expansion of communications infrastructure; this could be strengthened by changing the focus so that authorities are encouraged to facilitate this expansion proactively through local policies.
43. The draft text also sets out that policies should prioritise full fibre connections to existing and new developments. Whilst it may be unsuitable for this to read as mandatory, the obligation could be strengthened, for example, by stating that this is a minimum expectation. It would also be useful if it were explicit that developers need to demonstrate to planning authorities that they have engaged with communications providers specifically.

Making effective use of land

44. In making effective use of land the County Council is keen to emphasise the need to ensure that safe access is provided and in the process does not result in severe residual cumulative impact on the highway network.
45. Where there are increasing densities reference needs to be made to ensure that suitable parking arrangements are achieved for the location to minimise indiscriminate parking affecting the safe and efficient operation of the highway.

Achieving well-designed places

46. The County Council would welcome further advice on how high quality buildings and places will be managed over the longer term to ensure this high quality is maintained into the future.

Meeting the challenge of climate change, flooding and coastal change

47. The County Council is concerned that the text no longer requires new developments to be energy efficient, without this requirement there is minimised incentive for developers to ensure buildings are less carbon intensive.
48. Where the generation of renewable energy and improved energy infrastructure is mentioned specific attention and pressure needs to be applied to the National

Grid and District Network operators to upgrade equipment as the high cost for generators can affect the financial benefits of generating energy.

49. Reference needs to be included to international and/or national climate change policies (Paris Agreement and Clean Growth Strategy), and where specific carbon targets are set these could be filtered down to local planning policy.
50. The need to provide electric vehicle charge points in new developments should be an essential requirement to meet targets to reduce vehicle emissions.

Conserving and enhancing the natural environment

51. The County Council supports the strengthening of reference to ecological networks. However, the protection of structural green infrastructure negotiated at the outline planning application stage, and funding to resource this, would be welcomed.
52. The County Council would like to see stronger links to the 25-year Environment Plan.

Conserving and enhancing the historic environment

53. The County Council supports the main changes.

Facilitating the sustainable use of minerals

54. There are several instances where text in the NPPF 2012 should be reinstated to help avoid the implication that minerals are no longer essential; to strengthen the mineral safeguarding policy; to recognise the importance of a steady and adequate supply of materials; and recognise the requirement for the maintenance of landbanks to ensure security of supply at all times. Details of this will be provided in the full response.
55. The NPPF needs to reference local planning authorities and not only minerals planning authorities with regards to safeguarding, given local planning authorities grant planning permission for non-minerals development.
56. The County Council would like to emphasise that for minerals planning the links between areas of demand and areas of supply are often not just between neighbouring authorities. For example mineral planning authorities in the East Midlands provide material to the East and South East of England; as such the Statement of Common Ground for mineral and waste planning authorities would apply to a wider geographical context.
57. The County Council welcomes the clarification on the 'agent of change', as it reinforces the policy objective of safeguarding mineral resources and particularly existing mineral workings. The Council advocates the clear and important role for up to date national and sub-national guidelines on future provision for aggregates to provide an overall quantitative context for planning for aggregate supply at a local level.

58. The County Council considers planning policy on minerals should continue to be contained within the main NPPF, rather than in a separate document as proposed. This will ensure that minerals continue to be seen as part of a holistic planning system.

**Supporting Housing Delivery through Developer Contributions consultation:
County Council's key comments**

59. The consultation seeks views on reforming developer contributions to affordable housing and infrastructure. The County Council would particularly like to comment on the following areas:

- Community Infrastructure Levy (CIL)
- Section 106 (S106) Pooling Restriction
- Strategic Infrastructure Tariff (SIT)

60. The current limits imposed by the CIL Regulations to the pooling of S106 contributions were originally intended to encourage a move from tariff-based approaches towards the CIL. However, for new schools, for example, CIL income is generally insufficient to fund the infrastructure and the S106 pooling restriction is an unnecessary administrative burden. The Government is proposing removing the pooling restriction, in areas that have adopted CIL, where it is not feasible to charge CIL, or where development is on several strategic sites.

61. In principle the removal of the S106 pooling restrictions is welcomed. Pooling restrictions have led to uncertainty in respect of potential limits on a local authority to provide the essential infrastructure to support development. This could in some cases lead to the refusal of planning permission, because the infrastructure cannot be provided without breaching the CIL Regulations. The proposed reform of S106 pooling restrictions, however, does not go far enough in ensuring there is a clear and precise approach to lifting the restriction even with the list of exceptions. For example, there is no clear guidance on how Government define a strategic site.

62. The statutory role of the County Council in the negotiation and implementation of CIL needs to be clarified.

63. The SIT proposal is aimed at encouraging cross boundary planning which will aid the provision of strategic infrastructure. However, it is proposed that this is only for Combined Authorities and areas with a joint committee. This limit means that it will not be available in most parts of the country. It is therefore proposed that the Government should consider extending the availability of the SIT to a wider range of areas, including County Councils for example in relation to cross boundary Highways and Transportation infrastructure projects which would support growth and development.

Background Papers

Draft revised National Planning Policy Framework

<https://www.gov.uk/government/consultations/draft-revised-national-planning-policy-framework>

Supporting housing delivery through developer contributions

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/691182/Developer_Contributions_Consultation.pdf

Housing White Paper - *Fixing our Broken Housing Market* (February 2017), DCLG:

<https://www.gov.uk/government/publications/fixing-our-broken-housing-market>

Report to the Cabinet – 10 October 2017 – Planning for the Right Homes and the Right Places

<http://politics.leics.gov.uk/ieListDocuments.aspx?CId=135&MId=4864&Ver=4>

Leicester and Leicestershire Strategic Growth Plan consultation

<http://www.llestrategicgrowthplan.org.uk/the-plan/stage-two/draft-plan/>

Strategic Growth Statement (August 2016), Leicester and Leicestershire:

http://www.llestrategicgrowthplan.org.uk/wp-content/documents/pdf_document/Strategic-Growth-Plan-12a.pdf

Equality and Human Rights Implications

64. There are no equality and human rights implications directly arising from this report.