

Local Plan and Government Policy Changes

Planning Policy Committee, Thursday, 19 January 2023

Report of: Chief Planning Officer - Cliff Thurlow

Purpose: For Decision

Publication status: Open

Wards affected: All

Executive summary:

On 22 December 2022, the Government began a ten-week consultation on proposed changes to the National Planning Policy Framework ('NPPF'). These proposals include policy changes regarding housing delivery targets and release of land from the green belt. The Government is also seeking views on its proposed approach to preparing National Development Management Policies.

This report supports the Council's priority of:

Creating the homes, infrastructure and environment we need but prudently managing financial resources.

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Recommendations to Committee:

- A. the report be noted; and
 - B. the Planning Policy Working Group, together with officers, be authorised to respond to the Government's consultation paper on changes to national planning policy by 2nd March, 2023, with a report back to this Committee.
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1. Introduction and background

1.1 In September 2022, the Council decided not to proceed for the time being with commissioning further work on its emerging Local Plan, pending clarification of future government planning policy.

- 1.2 This decision followed a letter in July 2022 sent by the then Secretary of State at the Department for Levelling Up, Housing and Communities (DLUHC) to the Chief Executive of the Planning Inspectorate ('PINS') advising that, until further notice, PINS should not determine that local plans are unsound and / or suggest that local plans should be withdrawn.
- 1.3 The letter introduced a significant degree of uncertainty regarding the plan making process. In particular, it raised the prospect of major policy changes to housing delivery targets and the scope for releasing land from the green belt.
- 1.4 On the 5 and 6 December 2022 respectively, a letter to MPs and a Written Ministerial Statement (WMS) were issued by the Secretary of State at DLUHC, Michael Gove, setting out proposed changes to the planning system.
- 1.5 The WMS was followed by a consultation "Levelling-up and Regeneration Bill: reforms to national planning policy" which began on 22 December 2022 and runs until 2 March 2023. The Government says it will respond to the consultation by "Spring 2023", publishing the NPPF revisions as part of this, so that national policy changes can take effect as soon as possible.
- 1.6 The results of the consultation are likely to have major implications for planning policy in the District given that it is a highly constrained District with 94 % green belt and two Areas of Outstanding Natural Beauty (AONB), one of which, the Surrey Hills AONB, is currently being considered for expansion.

2. Letter to MPs and Written Ministerial Statement

- 2.1 The Levelling-Up and Regeneration Bill continues to progress through the Houses of Parliament and will pave the way for significant reforms to the planning system in due course.
- 2.2 The Secretary of State summarised the key proposed further changes to the planning system in a letter to MPs and a Written Ministerial Statement. These are included at Appendices A and B.
- 2.3 The letter to MPs provided a number of statements of intent which are of relevance as summarised below. A more limited summary of points made in the letter to all MPs is reflected in the written Ministerial Statement:
 - *It will be up to local authorities, working with their communities, to determine how many homes can actually be built, taking into account what should be protected in each area - be that our precious Green Belt or national parks, the character of an area, or heritage assets.*

- *The effect of these changes will be to make absolutely clear that Local Housing Need should always be a starting point – but no more than that – and importantly, that areas will not be expected to meet this need where they are subject to genuine constraints.*
- *We will be clear that local planning authorities are not expected to review the Green Belt to deliver housing. This is in line with commitments made by the Prime Minister in the Summer.*
- *My changes will instruct the Planning Inspectorate that they should no longer override sensible local decision making, which is sensitive to and reflects local constraints and concerns. Overall this amounts to a rebalancing of the relationship between local councils and the Planning Inspectorate, and will give local communities a greater say in what is built in their neighbourhood.*
- *We will end the obligation on local authorities to maintain a rolling five-year supply of land for housing where their plans are up-to-date. Therefore for authorities with a local plan, or where authorities are benefitting from transitional arrangements, the presumption in favour of sustainable development and the 'tilted balance' will typically not apply in relation to issues affecting land supply.*
- *I will ensure that plans no longer have to be 'justified', meaning that there will be a lower bar for assessment, and authorities will no longer have to provide disproportionate amounts of evidence to argue their case.*
- *Where authorities are well-advanced in producing a new plan, but the constraints which I have outlined mean that the amount of land to be released needs to be reassessed, I will give those places a two year period to revise their plan against the changes we propose and to get it adopted. And while they are doing this, we will also make sure that these places are less at risk from speculative development, by reducing the amount of land which they need to show is available on a rolling basis (from the current five years to four).*

2.4 It is accepted practice that Ministerial Statements can be material considerations in the determination of planning applications and can have an effect upon the preparation of emerging development plans. The status of letters to MPs is less clear.

3. The Consultation

- 3.1 The Government's "Levelling-up and Regeneration Bill: reforms to national planning policy" was published on 22 December 2022 for consultation.
- 3.2 It set out the proposed approach to reforming national planning policy for consultation, taking forward the proposed changes outlined in the Written Ministerial Statement. The Government intends to publish changes to the NPPF in Spring 2023 following the end of the consultation in March 2023. These changes would come into effect under the current planning system and would apply to plans submitted for examination as soon as the changes come into effect. These changes would have no effect on plans at examination which benefitted from the transitional provisions relating to changes introduced to the NPPF 2018, such as the Council's emerging Local Plan.
- 3.3 The Government expects that the reformed plan-making system will be introduced in late 2024. Further changes are expected to the NPPF beyond those specific wording changes consulted upon to reflect the Levelling Up and Regeneration Bill proposals (assuming the Bill secures Royal Assent).
- 3.4 An indication of the Government's direction of travel is provided through the consultation. Given these proposals are only high level at this point in time, the following focuses on the key changes proposed to the NPPF which are planned by Government to come into effect in Spring 2023.
- 3.5 Given the potential implications of the proposed changes in Government policy for both the Council's emerging Local Plan and its development management function, it is proposed that the Planning Policy Working Group together with officers be authorised to respond to the Government's consultation paper on changes to national planning policy by 2nd March, 2023, with a report back to this Committee.

4. Key changes

- 4.1 Key changes include:
- 4.2 Local authorities will be expected to continue to use the standard method formula for assessing local housing need, introduced in 2018. The ability to use an alternative method where there are exceptional circumstances will be retained. The standard method output would now be an advisory 'starting point' for plan-making rather than mandatory. The consultation asks about what would be classed as exceptional circumstances.
- 4.3 No changes to the standard method formula or data. However, the Government says it will review the implications for the standard method when the new household projections data, based on the 2021 Census, is published in 2024.

- 4.4 Councils would not be required to review and alter their Green Belt boundaries, even if meeting their full housing need would be impossible without such a review.
- 4.5 Councils would be able to take past over-delivery of housing into account when assessing housing need. If permissions that have been granted exceed the provision made in the existing plan, that surplus may be deducted from what needs to be provided in the new plan.
- 4.6 The need to avoid development that would be uncharacteristically dense for the area can outweigh the requirement to meet local housing need. This calculation should be made taking into account the principles in local design guides or codes.
- 4.7 Authorities with emerging local plans would benefit from a reduced housing land supply requirement. For the purposes of decision-making, where emerging local plans have been submitted for examination or where they have been subject to a Regulation 18 or 19 consultation which included a policies map and proposed allocations towards meeting housing need, those authorities would benefit from a reduced housing land supply requirement of four years instead of the usual five. This would apply for a period of two years from the date the changes come into effect.
- 4.8 Councils would no longer have to provide five year housing land supply buffers.
- 4.9 Evidence of sufficient deliverable permissions could save Councils from the most severe Housing Delivery Test sanction which they currently face. This would mean the application of the "presumption in favour of sustainable development" as a consequence of under delivery would not apply where the authority could show sufficient permissions for enough deliverable homes to meet their own annual housing requirement or, where lacking an up to date local plan, local housing need plus an additional contingency based on the number of planning permissions that are not likely to be progressed.
- 4.10 Past "irresponsible planning behaviour" by applicants could in future be taken into account when applications are being determined. Examples given of such behaviour are persistently breaching planning controls or failing to deliver their legal commitments to the community.
- 4.11 Steps would be taken to prevent developers avoiding Biodiversity Net Gain rules by clearing habitats before submitting applications, and before the creation of off-site biodiversity enhancements.
- 4.12 The threat to wildlife created by the use of artificial grass by developers in new developments to be addressed, noting the importance of some uses of artificial grass such as on sports pitches.

- 4.13 To amend the NPPF to encourage planning authorities to consider how they can ensure that planning conditions for applications refer to accurate plans and drawings which provide visual clarity about the design of the development, as well as clear conditions about the use of materials where appropriate, so they can be referred to as part of the enforcement process.
- 4.14 Neighbourhood Plans: currently, the NPPF states that the adverse impact of allowing development that conflicts with Neighbourhood Plans is likely to outweigh the benefits, but not if that plan is more than two years old. The Government is proposing to extend that protection to Neighbourhood Plans that are up to five years old. It is also proposing removing tests which mean planning authorities need to demonstrate a minimum housing land supply and have delivered a minimum amount in the Housing Delivery Test for Neighbourhood Plans to benefit from the protection.
- 4.15 Planning for provision of social rent homes to be given a higher priority in the NPPF 20.
- 4.16 The Government also proposes to simplify the tests of soundness for Local Plan examinations, removing the requirement of justification. Examination will instead focus on effectiveness, deliverability and whether the proposed local housing target meets needs so far as possible (rather than as a minimum meeting needs in full).
- 4.17 The Government has reaffirmed its commitment to delivering 300,000 homes a year.
- 4.18 The contents of Mr Gove's statement and the Government's consultation have the potential to have significant implications for this Council's emerging Local Plan and planning policies. The biggest unknown factor is whether the proposed changes will be fully implemented following the consultation process now underway.
- 4.19 Given the importance for the District of the Government's proposed changes to national planning policy, the Council has commissioned DAC/Arup planning consultants to help advise on how the Council should proceed with its emerging Local Plan, with planning policy generally, and with ensuring the adequate provision of infrastructure going forward and to address the severe infrastructure deficit that already exists in the District.

5. National Development Management Policies

- 5.1 The Government is also consulting on the introduction of National Development Management policies. The intention is to develop a set of development management policies that would apply to all local authorities, thereby reducing what the Government believes to be unnecessary duplication in local development management policies.
- 5.2 These National Development Management Policies would rank higher than any local development management policies and so, where there is conflict, the National Development Management Policies would take precedence.

5.3 The National Development Management Policies would be in addition to those in the modified NPPF, which is intended to be strategic in nature.

5.4 The introduction of these National Policies affects the emerging Local Plan because the emerging Local Plan also contains a large number of development management policies and so some or all of these could be superseded at any time. This risk also applies to the existing adopted Detailed Policies. There is no timetable for the introduction of National Development Management Policies.

Key implications

Comments of the Chief Finance Officer

There are no financial issues associated with this report. The financial envelope for Local Plan development and related issues will need to be reviewed once there is more certainty on the impact of national policy changes on required activity

Comments of the Head of Legal Services

There are no legal issues associated with this report. The report simply provides Members with an update on the work to support the delivery of the Local Plan.

Equality

Duty under the Equalities Act 2010

In assessing this proposal, the following impacts have been identified upon those people with the following protected characteristics (age, disability, gender re-assignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation).

The proposal would have a neutral impact on the protected characteristics.

Climate change

There are no significant environmental / sustainability implications associated with this report.

Background papers

Appendix A

Letter to MPs: Letter from Secretary of State Michael Gove – Planning and Local Control in England

Appendix B

Parliamentary Written Statement made on 06.12.22 by Secretary of State Michael Gove