

**REPORT TO:** Environment and Urban Renewal Policy and Performance Board

**DATE:** 19<sup>th</sup> September 2018

**REPORTING OFFICER:** Strategic Director – Enterprise, Community and Resources

**PORTFOLIO:** Physical Environment

**SUBJECT:** Revised National Planning Policy Framework

**WARDS:** All Wards

## **1.0 PURPOSE OF THE REPORT**

- 1.1 The National Planning Policy Framework (NPPF) was originally published in 2012. The Government published a revised NPPF in July 2018. This report provides a brief overview of the main changes of the Revised NPPF and implications for Halton.
- 1.2 The policies contained within the NPPF are ‘material considerations’ to be taken into account in determining planning applications from the date of publication, 24<sup>th</sup> July 2018. The Planning Acts state that applications for planning permission should be determined in accordance with Local Plan policies and ‘material considerations’.
- 1.3 Transitional provisions in paragraph 214 of the revised NPPF make it clear that the policies in the 2012 NPPF will continue to apply for the purpose of examining Local Plans where those plans are submitted on or before 24<sup>th</sup> January 2019. Where such plans are withdrawn or otherwise do not proceed to become part of the development plan the policies contained in the new NPPF will apply to a subsequent plan produced.

## **2.0 RECOMMENDATION: That**

- 1. the content of this report is noted; and**
- 2. the importance of the revised NPPF in the Local Plan process and local planning decisions is recognised**

### **3.0 SUPPORTING INFORMATION**

3.1 The final version of the revised National Planning Policy Framework (NPPF) was published on 24<sup>th</sup> July 2018. The key part of the new NPPF which continues to be of utmost importance to the development industry is the presumption in favour of sustainable development (Para 11) and in particular the “titled balance” in Para 11(d) (previously Para 14). Whilst no longer a “golden thread” for plan-making and decision making, this will remain the key battleground where planning permission is sought on unallocated sites or for which the development plan supports a refusal of planning permission.

3.2 Naturally, wider implications and potential impacts of the new policies will become clearer over time, especially where the meaning of some policies becomes the subject of legal challenge.

#### Greenbelt

3.3 There have been minor changes to Green Belt policies. Para 136 regarding exceptional circumstances for amendments to Green Belt boundaries refers to these being fully evidenced and justified. New Para 137 specifies that to justify the existence of exceptional circumstances a Local Planning Authority (LPA) should be able to demonstrate that it has examined all other reasonable options for meeting its identified need for development.

#### Viability

3.4 Paragraph 57 confirms the Government’s approach will now be that planning applications that comply with up to date Local Plan policies requiring planning obligations (Section 106 agreements) should be automatically assumed viable. It is up to the applicant to justify a need for viability assessment at the application stage.

3.5 All viability assessments (including those at the plan-making stage) should reflect the recommended approach in Planning Practice Guidance (PPG), including standardised inputs. The PPG does, however, include flexibility for an exemption to making viability assessments publically available, but any request for exemption must satisfy the local planning authority that the information provided will be commercially sensitive. Applicants must reach an agreement with local planning authorities on the publication of viability evidence prior to application submission to ensure there is no risk of sensitive material being leaked. The revised PPG sections repeatedly make it clear that the price paid for land is not a relevant justification for failing to accord with relevant policies in development plans. It is therefore no surprise that the PPG supports the use of existing use value plus a landowner premium to define the benchmark land value for viability assessments.

- 3.6 Paragraph 34 on development contributions sets out circumstances when further viability assessment may be required in determining individual applications. This is justified in Paragraph 57, the NPPF puts the burden on applicants to demonstrate whether circumstances justify the need for a viability assessment at application stage. It is the decision maker's assessment with regards to the circumstances of the case.

#### Appropriate Assessment – Protection of Habitats

- 3.7 Following the recent case of *People Over Wind and Sweetman v Coillte Teoranta (C-323/17)* this has become a major issue for both plan making and decision making, should the proposal be in the vicinity of a protected European site. Where an application is submitted within the vicinity of a Source Protection Area (SPA) (the Mersey Estuary is a SPA). The applicant can no longer propose mitigation measures at the screening stage of an appropriate assessment. This means that more appropriate assessments may be required in the future as fewer schemes can claim development impacts are “screened out”. The implications of these are costs of doing appropriate assessment and the time for these to be undertaken.

- 3.8 Paragraph 177 of the revised NPPF states that the ‘presumption in favour of sustainable development’ within the new NPPF does not apply where development requiring appropriate assessment because of its potential impact on a habitat site. In short this means that those schemes which require appropriate assessment following the above court ruling cannot now benefit from the ‘tilted balance’ test set out in paragraph 11(d).

#### Standard Methodology

- 3.9 The Standardised Methodology to assess housing needs and the Housing Delivery Test are two of the most anticipated changes to housing policy that the Government is bringing forward, and they are reflected in the revised NPPF and Planning Practice Guidance (PPG). Strategic Polices for Halton will be informed through using a local housing need assessment, conducted using the standard method reflecting demographic trends and market signals. The Government have indicated that the local housing need figure shall be based on new household projection figures which are expected in September 2018. Following the publication of household figures, the Government could adjust the method in order to ensure that it is consistent with meeting the goal of 300,000 homes per year by the mid 2020's, this amendment would be through a further revised PPG.

#### Small and Medium sites

- 3.10 The NPPF requires that LPA's accommodate at least 10% of their housing requirement on small and medium sized sites (up to 1ha) through their development plans and brownfield land register. The 10% target may not be

achievable in all circumstances; in this case the local plan policies should detail strong reasons that make the 10% target unachievable.

#### Affordable Housing

- 3.11 The most noticeable revision to the definition of affordable housing is within Annex 2 of the revised NPPF. This widens the definition of affordable housing to include starter homes, discounted market sale housing and other affordable routes to home ownership. The definition of social rent has also been included within the definition of affordable housing, in line with secondary legislation. Pursuant to paragraph 62 and footnote 27 of the new NPPF where a need for affordable housing is identified by local planning authorities they now should specify the type of affordable housing required by applying the definition of Annex 2 in the Framework.
- 3.12 Paragraph 64 of the new NPPF sets out an expectation that at least 10% of homes on major development (as defined in Annex 2 of the new NPPF) should be available for affordable homeownership as part of the overall housing contribution on the site.
- 3.13 Applicants looking to develop sites should be advised to consider whether their existing section 106 agreements provide flexibility to agree an alternative form of affordable housing provision to take into account the new wider Annex 2 definition or whether they can otherwise form an argument that existing section 106 agreements should be revisited to alter type of affordable housing provision. This may help ensure viability of residential schemes, or indeed allow local planning authorities to provide a wider range of affordable housing options to meet local needs.

#### Design

- 3.14 The revised NPPF gives a new centrality to design policies, as they are considered instrumental in delivering new homes. Chapter 12 'Achieving well-designed places' is where this renewed rhetoric is translated into policy. Paragraph 124 specifies that 'being clear about design expectations, and how these will be tested, is essential' for achieving sustainable development. Effective engagement e.g. with local communities (including through workshops), the use of 'local design standards or style guides', and the refusal of permissions for developments of poor design are some of the ways the revised NPPF aims to achieve this objective. Crucially, para 130 requires local planning authorities (LPAs) to make sure that the quality of approved developments does not materially diminish 'between permission and completion, as a result of changes being made to the permitted schemes'.

### Heritage

- 3.15 The Council is now expected to maintain or have access to a historic environment record in accordance with Para 187 of the NPPF, this is to provide an evidence base to predict the likelihood that currently unidentified heritage assets maybe discovered in the future.
- 3.16 Revised NPPF has also made changes to the way in which the impact of proposed development on the significance of designated heritage assets is assessed. Para 193 states that great weight should be given to the assets conservation irrespective of any potential harm amounting to substantial harm, total loss or less than substantial harm to its significance. Where a development proposal would leave to a less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing the optimum viable use.

### Town Centres

- 3.17 Revised NPPF now recognises that diversification of town centres is key to the long term vitality and viability in order to respond to changes in retail and leisure. Planning polices will be required to clarify the range of uses permitted in town centres and primary shopping areas as part of a positive strategy for town centres.

### Land Assembly

- 3.18 In order to achieve the housing targets set by the LPA through the standard methodology Para 119 of the revised NPPF details powers that LPA's can use to facilitate land assembly, including using compulsory purchase powers.

### Strategic and Non-Strategic Policies

- 3.19 Revised NPPF clearly distinguishes between strategic policies (looking over 15 years) and non-strategic polices (those which are non-strategic such as car parking, contaminated land etc.)

### Transition

- 3.20 With regards to Development Control/Management the policies contained within the revised NPPF are material considerations to be taken into account in determining planning applications from the day of its publication, 24<sup>th</sup> July 2018.
- 3.21 The transitional provisions in paragraph 214 of the new NPPF make it clear that policies in the 2012 NPPF will continue to apply for the purpose of examining plans where those plans are submitted on or before 24 January 2019. Where such plans are withdrawn or otherwise do not proceed to

become part of the development plan the policies contained in the new NPPF will apply to a subsequent plan produced.

#### **4.0 POLICY IMPLICATIONS**

4.1 The NPPF and accompanying PPG set out the Government's planning policies for England and how these should be applied by developers, applicants for planning permission, and Local Planning Authorities (LPA). It provides a framework within which locally prepared plans for housing and other development can be produced.

4.2 Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. The NPPF must be taken into account in preparing the development plan (aka Local Plan), and is a material consideration in any planning decision. Planning policies and decisions must also reflect relevant international obligations and statutory requirements (such as European Habitats Regulations).

#### **5.0 FINANCIAL IMPLICATIONS**

5.1 No immediate financial implications as the report is for information only.

#### **6.0 IMPLICATIONS FOR THE COUNCIL'S PRIORITIES**

##### **6.1 Children & Young People in Halton**

It is likely that the Revised NPPF through the standard methodology will provide a minimum housing figure for the Borough guiding an increase in the number of homes and people within Halton. Liaison with appropriate bodies is being undertaken as this is likely to have potential implications for Commissioning and School Place Planning in the future and therefore already forms part of the Halton's Local Plan discussions.

##### **6.2 Employment, Learning & Skills in Halton**

The revised NPPF encourages a clear economic vision and strategy which positively and proactively encourages sustainable economic growth.

##### **6.3 A Healthy Halton**

The revised NPPF and associated guidance provides mechanisms in order to establish the required number of homes over the plan period in Halton. Depending upon the numbers calculated there is the potential for implications for the provision of health services and leisure facilities. This will be dealt with through continued liaison with the appropriate bodies.

#### **6.4 A Safer Halton**

The NPPF includes policies to ensure that new developments are appropriately designed, which will ultimately discourage crime and create a safer Halton.

#### **6.5 Halton's Urban Renewal**

The revised NPPF provides direction for the plan making process and the formulation of the policies within the Local Plan that is used at a local level for decision making on planning applications. The NPPF is also a significant material consideration in the determination of planning applications. This will impact on the delivery of housing employment, protection of open spaces and ensuring a high standard of development across the Borough.

### **7.0 RISK ANALYSIS**

7.1 The main risks include further changes to Government policy, regulations and legislation. For example changes to the standard methodology post September 2018 house hold projections in Planning Practice Guidance that may supersede previous work commissioned by the Council. Changing national policy, set out in NPPF and PPG, represents a key risk to Halton's Local Plan timetable and the programme to replace the Unitary Development Plan with the Delivery and Allocations Local Plan (DALP).

### **8.0 EQUALITY AND DIVERSITY ISSUES**

8.1 The Revised National Planning Policy Framework is national planning guidance and this document is for information only.

### **9.0 LIST OF BACKGROUND PAPERS UNDER SECTION 100D OF THE LOCAL GOVERNMENT ACT 1972**

<b>Document</b>	<b>Place of Inspection</b>	<b>Contact Officer</b>
The Town and Country Planning (Local Planning) (England) Regulations 2012 (and any subsequent amendments)	Municipal Building, Widnes	Alasdair Cross
National Planning Policy Framework (2012)	Municipal Building, Widnes	Alasdair Cross
Revised National Planning Policy Framework (July 2018)	Municipal Building, Widnes	Alasdair Cross
Halton Core Strategy Local Plan (2013)	Municipal Building, Widnes	Alasdair Cross
Executive Board report [9th January 2014] Delivery and Allocations Local Plan Scoping Consultation	Municipal Building, Widnes	Alasdair Cross
Executive Board report [10th December 2015] Revised Delivery and Allocations Local Plan (DALP) Scoping Report	Municipal Building, Widnes	Alasdair Cross

Delivery and Allocations Local Plan Publication Document (January 2018)	Municipal Building, Widnes	Alasdair Cross