

AMENDED AGENDA

CABINET MEETING



Date: Wednesday 10 August 2011
Time: 6.30 pm
Venue: Town Hall, High Street,
Maidstone

Membership:

Councillors Garland (Chairman), Greer, Hotson,
Mrs Ring and J.A. Wilson

Page No.

1. Apologies for Absence
2. Urgent Items
3. Notification of Visiting Members
4. Disclosures by Members and Officers
5. Disclosures of lobbying
6. To consider whether any items should be taken in private because of the possible disclosure of exempt information
7. Minutes of the Meeting held on 13 July 2011

Continued Over/:

Issued on 09 August 2011

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**Alison Broom, Chief Executive, Maidstone Borough Council,
Maidstone House, King Street, Maidstone Kent ME15 6JQ**

KEY DECISION REPORTS

8. Report of the Head of Communications - Communications and Engagement Strategy
9. Report of the Head of Change and Scrutiny - Complaints Policy
10. Report of the Director of Change, Planning and the Environment - Core Strategy 2006-2026: Public Participation Draft

NON-KEY DECISION REPORTS

11. Report of the Head of Change and Scrutiny - Quarter 1 Performance Report
12. Report of the Head of Finance and Customer Services - First Quarter Revenue & Capital Monitoring
13. Report of the Leader and Chief Executive - Response to Vision for Kent Consultation
14. Report of the Leader of the Council - Forward Plan
15. **Report of the Director of Change, Planning and the Environment - Urgent Consultation on the draft National Planning Policy Framework**

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MAIDSTONE BOROUGH COUNCIL

CABINET

10th August 2011

REPORT OF DIRECTOR OF CHANGE, PLANNING AND THE ENVIRONMENT

Report prepared by Flo Churchill, Interim Head of Core Strategy Development

1. URGENT CONSULTATION ON DRAFT NATIONAL PLANNING POLICY FRAMEWORK (NPPF)

1.1 Issue for Decision

1.1.1 To consider how much weight to attach to the draft National Planning Policy Framework (NPPF) as a material consideration for the purposes of development plan making and for determining applications for development.

1.2 Reason for Urgency

1.2.1 The draft NPPF has been published for a standard 12 week consultation process however guidance published by the Planning Inspectorate for Inspectors has stated that it can be considered to be a material consideration. Cabinet need to determine how much weight, if any to attach to the draft.

1.3 Recommendation of Director of Change, Planning and The Environment

It is recommended that:

1.3.1 Cabinet determine that little weight be attached to the draft National Planning Policy Framework as a material consideration in both plan making and the determination of planning applications.

1.4 Reasons for Recommendation

1.4.1 It is vital that the Council determines how much weight to attach to the draft NPPF for plan making and decision making purposes. It is also important that the Council prepares a formal consultation

response to the Framework as it is intended to replace all current planning guidance in the form of Planning Policy Guidance (PPG) Planning Policy Statements (PPS), Circulars and any other guidance as appropriate.

1.4.2 The consultation on the draft NPPF is taking place against a background of changes that will fundamentally affect the planning system in England. Changes are being introduced via the Localism Bill that will impact massively on the way that development plans are produced and these changes will be aligned to the changes proposed in the current consultation on regulations governing the production of development plans.

1.4.3 There has also been a recent consultation on guidance for Gypsy and Traveller issues that ended on 3rd August 2011. Maidstone's response to that consultation is attached as Appendix 1. It is intended to publish a new Planning Policy Statement for Gypsy and Traveller Sites as soon as the consultation responses have been incorporated. The government then intends to review the new PPS in the light of comments received on the draft NPPF and incorporate guidance into the final NPPF.

1.4.4 **Introduction and Background**

1.4.5 The draft NPPF is intended to bring together all PPSs, PPGs and some Circulars into a single consolidated document. Scattered throughout the draft Framework are references to a presumption in favour of sustainable development and the need to support economic growth, both ideas having been previously trailed in the ministerial statement "Planning for Growth."

1.4.6 The draft NPPS recommends that Local Authorities should :

- Prepare local plans on the basis that objectively assessed development needs should be met, and with sufficient flexibility to respond to rapid shifts in demand or other economic changes;
- Approve development proposals that accord with statutory plans without delay; and
- Grant planning permission where the plan is absent, silent, indeterminate or where relevant policies are out of date.

1.4.7 Even though the NPPF is only at a draft stage and has yet to be fully subjected to a completed consultation process it gives a very clear indication of the way in which the government is intending to develop planning policy. Recent advice given by the Planning Inspectorate to Inspectors says that:

“Therefore the draft National Planning Policy Framework is capable of being a material consideration although the weight to be given to it will be a matter for the decision maker’s planning judgement in each particular case. The current Planning Policy Statements, Guidance Notes and Circulars remain in place until cancelled.” (Appendix 2)

1.4.8 It should also be noted that throughout the document the term Local Development Framework is not used and instead the government have reverted to call the local element of the Development Plan the Local Plan. This does not mean that the planning system has taken a retrograde step but that it has now adopted terminology that may have a heritage from a previous iteration of the development plan process in England.

1.4.9 **Main Issues**

1.4.10 The NPPF introduces a number of key changes that impact significantly on how the planning system may work in England. These changes are highlighted below:

Presumption in favour of development

1.4.11 The so-called presumption in favour of sustainable development (Referred to as the presumption here on in) is seen as central to the government’s overall approach and to the setting of the tone of its overall stance toward planning. It intends to encourage the need to plan positively for new development that is seen as appropriate and to allow for both plan making and development management to be proactive in seeking opportunities to deliver sustainable development rather than putting barriers in the way of such development. There is currently no accepted definition of what comprises ‘Sustainable Development.’

1.4.12 The way in which the NPPF tries to encourage sustainable development is by placing an increased emphasis on the importance of meeting development needs through plans, the need to approve proposals quickly where they are in line with those plans and the role of the NPPF as a basis for decision making to be used where plans do not provide an adequate basis for deciding those applications

Removing office development from ‘Town Centre First’ policy

1.4.13 Current town centre policy, mainly contained in PPS4 applies equally to office development as it does to retail, leisure and other so called town centre uses. Office development is therefore subjected to the requirement to comply with the sequential test approach and for the scheme to be assessed on the likely impacts on a range of impact

considerations. This will no longer be applicable as office development will no longer be required to meet the 'Town Centre First' policy approach.

- 1.4.14 Proposals for office development will be judged on their individual merits but will be expected to take account of local and national policies on the location of new development that generates significant movements of people. Additionally the relative supply of and demand for office space in different locations will also be a consideration.

Time horizon for assessing impacts

- 1.4.15 The current time horizon for assessing the impacts of unplanned retail and leisure schemes in edge of centre or out of town locations is currently up to 5 years from the time that the planning application is made. The government feels that this is not long enough to allow the full impacts of a large scheme to be assessed. The likely impact of new retail and leisure development in terms of the potentially substantial consequences to other local businesses, residents, transport, infrastructure and the environment may take some time to be felt and for the costs and benefits of such a new development to be properly assessed.

- 1.4.16 Five years for assessing the impacts is felt to be too short a timescale and the NPPF suggests a change to 10 years. A time horizon of ten years would allow for the full operational impact of the development to be felt and to be assessed.

Removing the maximum non-residential car parking standards for major developments

- 1.4.17 PPG13 Transport currently sets out national maximum parking standards for non-residential uses and the size thresholds that these standards should apply to so that both councils and developers would be encouraged to use land efficiently and also to allow them to take measures to minimise the need for parking.

- 1.4.18 The government feels that current policy on non-residential standards for major developments is too centralised and that it prevents local councils from developing policies that are appropriate to local communities and circumstances. It is felt that centrally prescribed maximum non-residential parking standards do not reflect local circumstances.

Peat

- 1.4.19 Whilst of little relevance to MBC the government's aim is to remove the requirement for local authorities to set criteria for the selection of

sites for future peat extraction. This will also support the aim of phasing out the use of peat.

Landbanks

1.4.20 The policy change that is being introduced by the NPPF is to make changes to the length of landbanks making it less prescriptive for scarcer/no-aggregate minerals. This change may be of some significance given that Kent County Council is currently consulting on the draft Waste and Minerals plan. The new proposed wording is as follows:

“Allocating sufficient land to maintain landbanks by ensuring landbanks of ... at least 10 years for crushed rock. Landbanks for scarcer minerals, (Silica and brick clay) should be for at least 10 years and longer landbanks may be justified in specific circumstances, such as the need to ensure the viability of proposed new investment.”

Removing the brownfield target for housing development

1.4.21 Following an earlier target in 1998 a target of 60% for all new dwellings being built on brownfield land was established. The draft NPPF is moving away from prescriptive land designations and towards a concept of ‘developable’ land where local areas decide the most suitable locations for housing growth based on local circumstances.

1.4.22 Local Authorities will then be able to assess land for suitability for development based on its characteristics and local needs. The government would prefer to remove brownfield target and so allowing local councils to determine the most suitable sites for housing. This should give greater discretion and decision making powers to local councils in consideration of the fact that land supply constraints are likely to vary across local councils.

1.4.23 The biggest impact of these changes is likely to be on sites brought forward for housing in the local plan. MBC will be able to consider sites that are considered to be the most suitable for development without being required to comply with a national brownfield target.

Requiring local councils to allocate an additional 20% of sites against their five year housing requirement

1.4.24 The government have signalled that they expect councils to plan to meet their full market requirement for housing and to ensure that there is choice and competition in the land market to facilitate the delivery of actual dwellings.

1.4.25 The NPPF is advocating an approach whereby councils identify an additional 20% of deliverable sites for housing above the current five year housing supply. What this means in practice is that councils should seek to identify sites to meet 120% of the annual housing requirement during the first five years.

Remove the national minimum site size threshold for requiring affordable housing to be delivered

1.4.26 Current national policy sets a minimum site threshold of 15 units for requiring affordable housing to be delivered therefore any development of 15 units or over would trigger a negotiation over the amount to be provided or to be paid in lieu via a S106 Agreement. The NPPF suggests the removal of the threshold with the level to be determined by local authorities. This should allow a greater degree of flexibility and therefore councils to seek optimum solutions for their areas.

Removing rural exceptions sites policy

1.4.27 Local Authorities can set a 'rural sites exception' policy to allocate sites for the permanent provision of affordable housing in small rural sites that otherwise would not be acceptable for housing due to policy constraints such as landscape designations. Rural exception sites are intended to address needs of the local community and are currently for affordable housing only

1.4.28 The government wishes to maintain a focus on affordable housing but also wants to give greater flexibility to councils to set their own approach to the delivery of housing including an element of market housing where this would facilitate the delivery of significant additional affordable housing to meet local requirements. In order to ensure that development is sustainable rural housing will not be allowed if the site is distant from local services.

Protecting community facilities

1.4.29 As part of the plan making process MBC will be asked to consider the availability and viability of community facilities and to develop policies to safeguard against their unnecessary loss. This policy approach is to be applied to all community facilities and not just those within defined local centres and villages.

1.4.30 The policy is not intended to prevent unviable businesses closing but will impose additional costs as councils will need to develop an understanding of the availability and viability of community facilities within their area. Developers will also be expected to produce evidence

to demonstrate that a community building or development used by a community facility is no longer required or viable for community use.

Green Belt

1.4.31 Four changes are proposed to current green belt policy:

- Development on previously developed Green Belt land is already permissible if the site is identified in the local plan as a major developed site. It is proposed to extend this policy to similar sites not already identified in a local plan;
- Park and Ride schemes are already permissible and it is proposed to extend this to a wide range of local transport infrastructure;
- Community Right to Build schemes will be permissible if backed by the local community; and
- The alteration or replacement of dwellings is already permissible and it is proposed to extend this to include all buildings

1.4.32 The tests to preserve the openness and purposes of including land in the Green Belt will be maintained. Green Belt boundaries should be established in Local Plan and these plans will also be expected to set the framework for the Green Belt and settlement policy therein. Green Belt boundaries should only be altered in exceptional circumstances. The appropriateness of such boundaries should only be considered when the Local Plan is prepared or reviewed. Authorities should pay attention to the intended permanence of boundaries to ensure that they endure beyond the plan period.

Green Infrastructure

1.4.33 More and greater coherence of networks of green infrastructure (GI) are to be supported by planning positively for their creation, protection, enhancement and management. Local Authorities are expected to take a more strategic approach to GI and to develop a better understanding of existing provision and functions of GI in their areas.

Green Space designation

1.4.34 The NPPF intends to introduce a new protection for locally important green space not currently protected by any national designation. This aims to reflect the importance that some land is particularly valued by communities and therefore requires additional protection. The new designation (referred to in the NPPF as Local Green Space) would aim

to fill the gap where land was locally important but where a national designation would not apply.

Clarification on which wildlife sites should be given the same protection as European sites.

1.4.35 The government has in the past chosen to apply the provisions that apply to European site to Ramsar sites and potential Special Protection Areas despite these sites not being European sites as a matter of law. The government is therefore proposing that provisions which apply to European sites should also as a matter of policy also apply to:

- Possible Special Areas of Conservation;
- Proposed Ramsar sites; and
- Site identified or required as compensatory measures for adverse effects on European sites, potential Special Protection Areas, possible Special Areas of Conservation, and listed or proposed Ramsar sites

1.4.36 The effect of this proposal should be to reduce the risk of the Council having to pay compensation for planning permissions that may be revoked as a result of a site becoming classified as a European site.

Decentralised energy targets

1.4.37 The Council will be expected to continue to support decentralised energy but will no longer be expected to set a council wide decentralised energy target. It is felt by government that increasing emphasis on the reduction of carbon emissions will reduce the need for council wide target. MBC can continue to have a decentralised energy target as long as it does not make development unviable.

Proactive approach to identifying opportunities for renewable and low carbon energy

1.4.38 The draft NPPF expects local authorities to consider indentifying suitable areas for renewable and low carbon energy and supporting infrastructure where this would help secure the development of such sources. If developers bring forward proposals outside areas identified they will be asked to demonstrate that the proposed location meets the criteria used in plan making.

Historic Environment

1.4.39 No new policies are proposed within the draft NPPF relating to the historic environment but existing policies are streamlined and incorporated within the guidance. Some policy has been placed in other appropriate sections of the framework

1.5 Alternative Action and why not Recommended

1.5.1 If the Council were so minded it could not make a decision on the weight to be attached at this stage to the draft NPPF. This would have the effect of opening up all decisions made on development applications, and development plan documents produced to be at risk of legal challenge. It is recommended that the Cabinet adopt the recommendation to ensure that this risk of challenge is minimised.

1.6 Impact on Corporate Objectives

1.6.1 The draft NPPF has a range of potential impacts on corporate objectives particularly those relating to economic development and prosperity. The extent of these impacts will be explored further in future reports to Cabinet

1.7 Risk Management

1.7.1 The main risk associated with the draft NPPF relates to the presumption in favour of sustainable development. Not only is there not an accepted definition of what comprises sustainable development but the framework itself is only at a draft stage, and is likely to be subject to change as it progresses towards adoption.

1.8 Other Implications

1.8.1

1. Financial	
2. Staffing	
3. Legal	X
4. Equality Impact Needs Assessment	
5. Environmental/Sustainable Development	X
6. Community Safety	
7. Human Rights Act	
8. Procurement	
9. Asset Management	

Legal

- 1.8.2 There are a number of legal implications given the guidance that has been issued by the Planning Inspectorate to Planning Inspectors. The implication that it is for the planning decision maker to determine what weight to attach as a material consideration and the recommendation to Cabinet seeks to clarify the situation.

Environmental/Sustainable Development

- 1.8.3 The draft NPPF places a lot of emphasis on sustainable development but fails to offer a definition of what this term might comprise and how it should be interpreted. It is expected that a definition will be forthcoming in the future.

1.9 Conclusions

- 1.9.1 The draft NPPF as currently drafted is a blunt instrument with no provision made for any transitional arrangements. Development plan documents (DPDs) should be in conformity with the NPPF and in the absence of any transitional arrangements there is the possibility that DPDs will be found unsound and development decisions opened up to challenge.
- 1.9.2 It is not proposed that work on development plan documents such as the Core Strategy should cease until such time as the NPPF is adopted as this would be a high risk strategy given the statement about plans being absent leading to a presumption in favour of development. There is no sound reason to stop work and progress on the Regulation 25 consultation about to be embarked upon. It may be appropriate to consider a pause in the production of the Core Strategy when it reaches Regulation 27 stage but that is dependent on what progress has been made with the adoption of the NPPF.
- 1.9.3 The draft NPPF is currently out to consultation and it is intended that MBC submits a full and robust response to the exercise. This draft response will be formulated in conjunction with members and will come back to Cabinet for endorsement in due course. It is however of vital importance that Cabinet makes a decision on the weight to be attached to the draft Framework to allow for the proper consideration of applications for development and to allow plan making to continue.
- 1.9.4 The Head of Development Management has been consulted and concurs with the recommendation. A place has been booked on the consultation workshop due to be held in Bristol on 15th September.

1.10 Relevant Documents

1.10.1 Appendices

- Appendix 1 Maidstone Borough Council response to consultation on the Draft Gypsy and Traveller Planning Policy Statement
- Appendix 2 Advice produced by the Planning Inspectorate for use by its Inspectors

1.10.2 Background Documents

- Draft National Planning Policy Framework

<u>IS THIS A KEY DECISION REPORT?</u>			
Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>
If yes, when did it first appear in the Forward Plan?			
.....			
This is a Key Decision because:			
.....			
Wards/Parishes affected:			
.....			



Response to Draft Planning
Policy Statement (PPS)
'Planning for Traveller Sites'



"Q1: Do you agree that the current definitions of 'gypsies and travellers' and 'travelling showpeople' should be retained in the new policy?"

This Council disagrees with retaining the existing definition of gypsies and travellers because, in our experience, this definition is not accepted as being fair and is also considered to be too loose by members of the settled community. The current definition is:-

"Persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family's or dependants' educational or health needs or old age have ceased to travel temporarily or permanently, but excluding members of an organised group of travelling showpeople or circus people travelling together as such".

It is our experience in having one of the highest concentrations of gypsy sites in England that the settled community does not consider many gypsies in this Borough to be of a nomadic habit. This is because many are landscape gardeners/businessmen who do not regularly travel over a wide area looking for work. Rather, they have fixed contracts in the same way as many builders, engineers, supply teachers etc. have, which means they only travel for specific contracted work and it often involves a daily commute. We cannot understand why this is a nomadic habit of life and neither can many residents. It is suggested that gypsy applications are accompanied by evidence of wage bills, receipts etc. to demonstrate a nomadic habit of life rather than anecdotal accounts of a visit to a horse fair, or horse trading which are often hobbies or secondary sources of income. The Council does not understand how occasional trips to horse fairs can represent a nomadic habit of life.

It is difficult for the local Planning Authorities communicating to the public how landscape gardeners, tarmac businesses and general builders are considered to have a nomadic habit of life or deciding to take up the "nomadic habit" for the first time.

As well as being too vague, the current definition allows for too many exceptions to the 'nomadic habit of life' definition. Most gypsy families have children (that need to be educated), older gypsies who cannot travel and the health needs are often wide-ranging, all allowing gypsies to 'cease travelling' and therefore provide many categories of exception to the current definition.



The reason why parts of Maidstone Borough continue to be popular with gypsies is down to many male gypsies having their own businesses and finding the price of agricultural land to be affordable. Maidstone has a high percentage of countryside and so supply matches demand in terms of market forces.

"Q2: Do you support the proposal to remove the specific reference to 'Gypsy and Traveller Accommodation Needs Assessments' in the new policy and instead refer to a "robust evidence base?"

Yes, this would allow Local Planning Authorities more flexibility but such an evidence base would have to be the subject of consultation and withstand the rigours of examination. This would be in the spirit of localism.

This Council particularly welcomes paragraph 7 of the Draft Planning Policy Statement in that this Borough has granted numerous planning permissions in recent years for gypsy sites in the open countryside whereas for 'bricks and mortar' housing it has been overwhelmingly concentrated on urban 'brownfield' sites. The amount of approved pitches was actually more than that envisaged by the GTAA for the period April 2006 to April 2011 and this should "inform policy development" because other types of residential development have been refused on 'greenfield sites'.

"Q3: Do you think that Local Planning Authorities should plan for "local need in the context of historical demand?"

No. The reliance on 'historic demand' in setting pitch targets would result in the perpetuation of existing patterns of provision. The authorities that have met their responsibilities in the past and provided sites like this Authority must continue to do so; however, this should be based on an up-to-date assessment of the need for sites in the countryside for "persons of nomadic habit of life" rather than any historic nostalgia. Gypsies and Travellers haven't worked on farms in any great numbers for decades and now tend to have no functional relationship with the countryside often. It is often a life-style choice and one which is often affordable. 'Achieved provision' should be more relevant than historic demand. Page 63 of the impact assessment recognises that some authorities have been over burdened. This fact needs to be recognised in the PPS itself.



It would also help if this was to become 'light touch' guidance on defining local need. We have been advised by counsel that a 'local connections' policy cannot be applied to gypsy sites as is the case with 'bricks and mortar' rural exception sites which are also on 'greenfield' sites.

There should be some recognition of the local authorities that house higher levels of gypsies and travellers because of the resultant impact on the character and appearance of the countryside. As such, there should be scope to set lower levels due to the higher numbers of gypsies and travellers.

"Q4: Do you agree that where need has been identified Local Planning Authorities should set targets for the provision of sites in their local planning policies?"

Yes. This should be explicit and would introduce more transparency and certainty.

"Q5: Do you agree with the proposal to require Local Planning Authorities to plan for five-year supply of traveller pitches/plots?"

It is too premature to give an informed response. It is our strongly held view that the suggested six month implementation period is inadequate in order to achieve a five-year supply through the allocation of sites in a DPD. It is relevant that no authority has yet adopted a DPD allocating gypsy and traveller sites and that this demonstrates the complexity and resource issues involved in getting such a DPD approved. There is always opposition to whatever sites are identified and it is very difficult to engage the public positively in this process. Stakeholders are often reluctant to take part in a search for sites exercise. Suitable sites on the edge of the urban area have often been 'land banked' by volume house-builders. Hitting local planning authorities with the 'stick' of a 6 month implementation period is not considered to be constructive. The same obstacles to progression will remain.

We would suggest a minimum 18-month period for reasons of deliverability cited above and the likely 'log-jam' for the Planning Inspectorate.

Another major concern with the draft PPS is point 9(c) on page 35:- "in determining how much land is required, not include sites for which they have granted planning permission unless they can demonstrate, based



upon robust evidence, that the sites are developable and are likely to contribute to delivering locally set targets at the point envisaged”.

It is understood that the suggestion in the draft PPS is not to include planning permissions for existing gypsy sites which are occupied by gypsy families as allocations in any DPD. The logic of this is not understood. Perhaps we have misconstrued what is proposed in point 9(c)? in that this is both unfair and inconsistent with ‘bricks and mortar housing’ assessments.

Gypsy and traveller sites do not constitute a mature market as is the case with ‘bricks and mortar’ housing.

“Q6: Do you agree that the proposed wording of Policy E (in the draft policy) should be included to ensure consistency with Planning Policy Guidance 2: Green Belts?”

The removal of the word ‘normally’ is to be welcomed. However, the unfairness felt by the settled community which the consultation paper inter-alia majors on, (paragraph 3.16 and elsewhere) equally applies to those living in countryside locations which are not Green Belt.

It is recommended that there is some stronger reference to Areas of Outstanding Natural Beauty only being suitable for sites in demonstrable exceptional circumstances. This national designation is based on the intrinsic beauty of an area.

“Q7: Do you agree with the general principle of aligning planning policy on traveller sites more closely with that for other forms of housing”?

Yes, very much so. It should result in a fairer planning system and reduce the likelihood of ‘rogue’ appeal decisions.

“Q8: Do you think the new emphasis on Local Planning Authorities consulting with both settled and the traveller communities when formulating their plans and determining individual planning applications will reduce tensions between these communities?”

Potentially, yes, this would seem to be a sensible approach.

“Q9: Do you agree with the proposal in the transitional arrangements policy (paragraph 26 of the draft policy) that asks Local Planning Authorities to “consider favourably” planning applications for the grant of temporary



permission if they cannot demonstrate an up-to-date five-year supply of deliverable traveller sites to ensure consistency with Planning Policy Statement 3: Housing?"

The Council fundamentally disagrees with this. In the short term there is little realistic prospect of providing a 5 year land supply. The proposal to treat planning applications 'favourably' where there is no five-year supply moves to an unacceptable presumption to grant permission, irrespective of the proper consideration of the planning impacts. This seems to be a 'knee-jerk' response and is overly punitive and is highly likely to cause deep concerns amongst the settled community. The 5 year land supply objective should be incentivized so that local authorities can plan positively.

"Q10: Under the transitional arrangements, do you think that six months is the right time Local Planning Authorities should be given to put in place their five-year land supply before the consequences of not having done so come into force?"

This Council is against this (see response to Q5 above), the timeframe is far too short and it is against a background of raised public expectations. It has always been difficult to allocate gypsy sites because of a lack of a 'buy-in' from external parties and we cannot see the controversy created by many gypsy proposals diminishing.

"Q11: Do you have any other comments on the transitional arrangements policy?"

The statement that, 'some rural areas may be acceptable for some form of traveller site', is vague and gives no clarity on the national position for this form of development in the countryside. As a form of housing, gypsy sites should be subject to the PPS7 requirement to strictly control new housing in the countryside (paragraph 9 iii).

Secondly, the draft 'top down' target for the RSS was aimed at redistributing gypsy sites across the south east in order to provide a more even and fairer distribution. Whilst we appreciate that there will be a duty for local authorities to co-operate, in practice, getting local authorities to 'buy-in' to a redistribution policy is likely to be challenging. We strongly advocate that public sites should be of a size and location as to benefit more than one local authority. By doing this, the benefits will be more evenly spread.



"Q12: Are there any other ways in which the policy can be made clearer, shorter or more accessible?"

See response to question 11 above but generally there is a need to be a degree less 'light touch' otherwise the new guidance will be open to the interpretation of the Planning Inspectorate.

On a more philosophical note, it would appear that the planning system has failed with regard to the supply of 'acceptable' gypsy sites. We would suggest closer working between LAs and RSLs and that an obligation is placed on RSL's to increase the supply of acceptable gypsy sites where there is a need.

"Q13: Do you think that the proposals in this draft statement will have a differential impact, either positive or negative, on people because of age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation? If so, how in your view should we respond? We are particularly interested in any impacts on (Romany) (Gypsies and Irish) travellers and welcome the views of organisations and individuals with specific relevant expertise. (A draft Equalities Impact Assessment can be found at Annex C).

This Council always produces Equality Impact Assessments for any key policy changes and this would be good practice in this instance.

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Maidstone House
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Kent
ME15 6JQ

Advice produced by the Planning Inspectorate for use by its Inspectors

NATIONAL PLANNING POLICY FRAMEWORK: CONSULTATION DRAFT

1. DCLG published the [consultation draft of the National Planning Policy Framework \(NPPF\)](#), together with its associated [consultation document](#), [Impact Assessment](#) and [media summary](#) on 25 July 2011. The NPPF is intended to bring together Planning Policy Statements, Planning Policy Guidance Notes and some Circulars into a single consolidated document.

2. The draft NPPF contains a number of references to the presumption in favour of sustainable development, and the need to support economic growth through the planning system. These have previously been trailed in the Written Ministerial Statement on [‘Planning for Growth’](#). It states that local planning authorities should:

- prepare local plans on the basis that objectively assessed development needs should be met, and with sufficient flexibility to respond to rapid shifts in demand or other economic changes;
- approve development proposals that accord with statutory plans without delay; and
- grant permission where the plan is absent, silent, indeterminate or where relevant policies are out of date.

3. The draft NPPF is likely to be referred to by the parties in current appeal and development plan casework. Whilst it is a consultation document and, therefore, subject to potential amendment, nevertheless it gives a clear indication of the Government’s ‘direction of travel’ in planning policy. Therefore, the draft National Planning Policy Framework is capable of being a material consideration, although the weight to be given to it will be a matter for the decision maker’s planning judgment in each particular case. The current Planning Policy Statements, Guidance notes and Circulars remain in place until cancelled.

4. Inspectors are strongly advised to familiarise themselves with the draft NPPF and also with Part B of the Impact Assessment (‘Changes to National Planning Policy’). [Annex B](#) sets out the policy changes noted in Part B. When conducting casework you should have regard to the consultation draft guidance and to the general advice in [Annex A](#).

Reference back to the parties

1. The key test for an Inspector considering the potential relevance of the Government's **emerging** single National Planning Policy Framework will be to identify whether the case turns on any of the matters raised by the consultation document, and if it does what action to take in the interests of fairness to the parties.

2. The proposed changes, outlined above and in [Annex B](#), are significant and could have a material bearing on the cases put and thus the decision reached by the decision maker. They are, however, contained in a consultation draft of national planning policy so Inspectors need to have regard to the proportionality of referring back to the parties in cases where, realistically, it is not likely that such reference would result in a change in the balance of considerations, including that fact that current planning policy statements, circulars and guidance documents remain in place until cancelled.

3. Inspectors are accordingly advised to consider on a case by case basis whether the draft NPPF is a material consideration of some weight, its relevance to the issues and whether in the interests of natural justice, the matter is referred to the parties before determination.

Changes to national planning policy noted in NPPF Impact Assessment part B

This annex highlights key policy changes in the single policy document. The text below is the text as it appears in Part B of the Impact Assessment (‘Changes to National Planning Policy’), with the exception of the text in parts (v) & (vi) of paragraph 23, on Green Belts, which is taken from paragraphs 137 and 138 of the NPPF. Inspectors are strongly advised to familiarise themselves with the entirety of the draft NPPF and also with Part B of the Impact Assessment.

i. Presumption in favour of sustainable development

1. The presumption in favour of sustainable development (the ‘presumption’) is central to the policy approach in the Framework, as it sets the tone of the Government’s overall stance and operates with and through the other policies in the document. Its purpose is to send a strong signal to all those involved in the planning process about the need to plan positively for appropriate new development; so that both plan-making and development management are proactive and driven by a search for opportunities to deliver sustainable development, rather than barriers.

2. It does this by placing increased emphasis on the importance of meeting development needs through plans; on the need to approve proposals quickly where they are in line with those plans; and on the role of the Framework as a basis for decisions where plans are not an adequate basis for deciding applications.

ii. Removing office development from ‘Town Centre First’ policy

3. Current town centre policy applies to office development as it does to retail, leisure development. This means that office development is subject to the requirement to demonstrate compliance with the sequential test and assess the likely impacts of the scheme on a range of impact considerations.

4. The objective of the change is to free office development from the need to follow the requirements of the ‘Town Centre First’ policy and for proposals to be judged on their individual merits including taking account of local and national policies on the location of new development that generates significant movement of people and the relative supply and demand of/ for office space in different locations.

iii. Time horizon for assessing impacts

5. The time horizon for assessing impacts of unplanned, retail and leisure schemes in the edge or out of centre locations is currently set at up to 5 years from the time the planning application is made. In some cases this is too short a time to allow the full impacts of large schemes to be assessed (especially for large sites and those that take considerable time to build). Often new retail and leisure development will have substantial consequences for other local businesses, local residents, transport infrastructure and the environment. When a development takes a number of years to build, and then takes a number of years to establish itself in a new market, five years may not be long enough to capture the full extent of the costs and benefits of the new development. This may restrict local councils from making the best choices in determining planning applications, and restrict their ability to plan for the long term.

6. Changing the time horizon to 10 years would allow a reasonable period of time from the time at which a planning application is made for planning permission to be granted, the

planning permission implemented and the development to realise its full operational impacts on town centre vitality and viability. This will allow local authorities to have full information when making a decision over future retail and leisure development.

iv. Removing the maximum non-residential car parking standards for major developments

7. The current policy (Planning Policy Guidance Note 13: Transport)¹ sets out national maximum parking standards for non-residential uses (i.e. the upper level of acceptable car parking provision) and size thresholds at which these maximum standards should apply. The aim of the policy was to encourage councils and developers to use land efficiently and where possible to take measures to minimise the need for parking. Local councils could set lower standards if there was an evidenced local need to do so.

8. Current Government policy on non-residential parking standards for major developments, such as retail and leisure developments over 1,000m² and offices over 2,500m² is too centralised and prevents local councils from developing policies that are most appropriate to their local circumstances and communities. Centrally prescribed maximum non-residential parking standards do not reflect local circumstances.

v. Peat – removing the requirement for local councils to set criteria for the selection of sites for future peat extraction (i.e. to identify new sites).

9. This policy will allow the planning system to support the Government's aim to phase out the use of peat in the UK. In 2010 Department for Environment, Food and Rural Affairs consulted on dates for phasing out the use of peat, which were 2020 for the amateur sector and 2030 for the professional sector. This will have environmental benefits by reducing greenhouse gas emissions and the destruction of rare habitats and archaeology. This policy will remove a requirement on local councils and will ensure that the planning system supports the Government objective (led by Department for Environment, Food and Rural Affairs) to phase out the use of peat.

vi. Landbanks

10. The policy change amends the length of landbanks in national policy, making it less prescriptive for scarcer/non-aggregate minerals. The wording is proposed to change from:

“at least 10 years for silica sand; at least 15 years for primary materials and secondary materials where these materials aim to supply an existing cement plant only; 25 years for brick clay and 25 years where it is needed to support a proposed cement plant”

to: “allocating sufficient land to maintain landbanks by ensuring landbanks of...at least 10 years for crushed rock. Landbanks for scarcer minerals, (silica sand and brick clay) should be for at least 10 years and longer landbanks may be justified in specific circumstances, such as the need to ensure the viability of proposed new investment”.

¹ <http://www.communities.gov.uk/documents/planningandbuilding/pdf/1758358.pdf>

vii. Removing the brownfield target for housing development

11. A specific target for brownfield land was first established by the 1995 housing white paper, which aspired to 50 percent of all new dwellings being built on brownfield land. In 1998, this was increased to 60 percent.

12. Government wants to move away from a prescriptive designation of land towards a concept of “developable” land where local areas decide the most suitable locations for housing growth based on their local circumstances. This approach will enable local councils to assess land for its suitability for development based on its characteristics and their needs without top down central government intervention.

13 The preferred option would be to remove the target to allow local councils to determine the most suitable sites for housing, giving greater discretion and decision-making powers to local councils reflecting the fact that land supply constraints vary across local councils.

14. The removal of the brownfield target may impact on sites brought forward for housing development in the local plan. Local councils will be able to allocate sites that they consider are the most suitable for development without being constrained by a national brownfield target.

viii. Requiring local councils to allocate an additional 20% of sites against their five year housing requirement.

15. The Government’s policy objective is that local councils should plan to meet their full requirement for housing and ensure there is choice and competition in the land market to facilitate the delivery of homes on the ground.

16. The preferred option is that local councils identify additional ‘deliverable’ sites for housing. The proposal is for this to be a minimum additional 20 per cent on top of current five year land supply. For example, in the first five years, local councils should identify sites to meet at least 120% of the annual housing requirement.

ix. Remove the national minimum site size threshold for requiring affordable housing to be delivered.

17. Current national planning policy sets a minimum site threshold of 15 units for requiring affordable housing to be delivered for all local councils. This means that any development of 15 units or more will trigger a negotiation over a contribution (paid by the developer) for affordable housing via a section 106 agreement.

18. By removing the centrally set 15-unit threshold for affordable housing, complete control will be given to local councils. This will allow greater flexibility for local councils to seek optimum solutions for their local areas.

x. Removing rural exception sites policy

19. Current policy allows local councils to set ‘rural exception site’ policies which allocate and permit sites solely for affordable housing in perpetuity for local people in small rural communities. This is where housing would not normally be considered appropriate due for example to policy constraints, such as Areas of Outstanding Natural Beauty. Rural exception sites seek to address the needs of the local community by accommodating households who are either current residents or have an existing family or employment connection. However, currently, the rigid requirement for sites to be only for affordable housing limits local councils’

options for meeting the full range of housing needs. This can lead to local councils being discouraged from taking a wider view on the need for housing in those rural areas and considering the balance to be struck between the benefits of meeting housing needs and maintaining current constraints.

20. The Government's objective is to maintain the focus on affordable housing but give local councils greater flexibility to set out their own approach to delivering housing, including allowing for an element of market housing where this would facilitate significant additional affordable housing to meet local requirements. To ensure development is sustainable, rural housing that is distant from local services should not be allowed.

xi. Protecting community facilities

21. Government's Coalition Agreement included a commitment to help support important community facilities and services. In line with this, the proposed policy strengthens the current policy by asking local councils to consider the availability and viability of community facilities as part of the plan making process and to develop policies to safeguard against their unnecessary loss. This policy is applied to all community facilities and not just those within defined local centres and villages.

22. Strengthening the current policy to apply to all community facilities would provide local councils and communities with greater control over how they can most appropriately protect important community facilities. The policy cannot prevent unviable businesses closing but it can send a strong signal of the importance the local community attach to the continuation of a community asset and encourage innovation and diversification to maintain viability. However, the proposed policy might impose modest additional costs on local councils as they would need to develop an understanding of the availability and viability of community facilities within their areas. Costs may also be incurred by developers in instances where they need to produce evidence to demonstrate a building or development previously used by a community facility is no longer required or viable for community use.

xii. Green Belt

23. Core Green Belt protection will remain in place. Four changes to the detail of current policy are proposed:

- i. Development on previously-developed Green Belt land is already permissible if the site is identified in the local plan as a major developed site – it is proposed to extend this policy to similar sites not already identified in a local plan;
- ii. Park and Ride schemes are already permissible – it is proposed to extend this to a wider range of local transport infrastructure;
- iii. Community Right to Build schemes will be permissible if backed by the local community.
- iv. The alteration or replacement of dwellings is already permissible – it is proposed to extend this to include all buildings.

In all cases, the test to preserve the openness and purposes of including land in the Green Belt will be maintained.

- v. Local planning authorities with Green Belts in their area should establish Green Belt boundaries in their Local Plans which set the framework for Green Belt and settlement policy. Once established, Green Belt boundaries should only be altered in exceptional circumstances.

vi. The appropriateness of existing Green Belt boundaries should only be considered when a Local Plan is being prepared or reviewed. At that time, authorities should consider the Green Belt boundaries having regard to their intended permanence in the long term, so that they should be capable of enduring beyond the plan period.

xiii. Green infrastructure

24. The objective is to secure more and greater coherence of strategic networks of green infrastructure² by planning positively for their creation, protection, enhancement and management. This will help support the natural environment, as well as providing green space for the use of local communities, supporting sustainable development and preserving green space for the use of future generations.

25. The preferred option would encourage local planning councils to take a more strategic approach to green infrastructure and give them a better understanding of the existing green infrastructure network and its functions in their area. This should contribute to better decisions being made about the protection and management of green infrastructure.

xiv. Green Space designation

26. The preferred option would be to introduce a new protection for locally important green space that is not currently protected by any national designation, giving greater discretion and decision-making powers to local councils and local communities reflecting the fact that some land is particularly valued by communities and requires additional protection. The new protection through a new designation³ would fill the gap where land was important locally – for example for local amenity – but where a national designation would not apply.

xv. Clarification on which wildlife sites should be given the same protection as European sites

27. The Habitats Regulations apply specific provisions of the Habitats Directive to candidate Special Areas of Conservation, Special Areas of Conservation and Special Protection Areas which require special considerations to be taken in respect of such sites. Local councils are required to have regard to the Directive in the exercise of their planning functions in order to fulfil the requirements of the Directive in respect of the land use planning system.

28. As a matter of policy, the Government has in the past chosen to apply the provisions which apply to European sites to Ramsar sites and potential Special Protection Areas, even though these are not European sites as a matter of law. This is to assist the UK Government in fully meeting its obligations under the Birds Directive and Ramsar Convention.

29. To ensure that its obligations in respect of the Habitats Directive, the Birds Directive and the Ramsar Convention are fully met in future, and to reduce the risk that any consents granted when a site is being considered for classification would subsequently have to be reviewed (and either revoked or modified at potentially very significant cost) after classification, the Government is proposing to clarify that the provisions which apply to European sites should as a matter of policy also apply to:

² 'Green infrastructure' is a strategic network of multi-functional green space, both new and existing, both rural and urban, which supports natural and ecological processes and is integral to the health and quality of life in sustainable communities. The Natural England definition of green infrastructure includes high quality green spaces and other environmental features, encompassing varied space such as urban parks, domestic gardens, waterways and churchyards.

³ The draft NPPF uses the term Local Green Space (paras 130-132)

- possible Special Areas of Conservation;
- proposed Ramsar sites; and
- sites identified, or required, as compensatory measures for adverse effects on European sites, potential Special Protection Areas, possible Special Areas of Conservation, and listed or proposed Ramsar sites.

30. This will provide certainty for local councils, developers and others about how to treat possible European sites, and should therefore ensure that a consistent approach is taken. This should contribute to better decisions being made about the protection of biodiversity, and reduce the risk of local councils paying compensation for any planning permissions that are revoked as a result of a site becoming classified as a European site.

xvi. Decentralised energy targets

31. The Government expects local councils to continue to support decentralised energy but does not need to require local councils through national planning policy to set council wide decentralised energy targets. The Government is committed to the zero carbon initiative, which is looking to reduce carbon emissions from new development. The increasing standards under the zero carbon initiative will help to drive decentralised energy, reducing the need for council wide targets. If local councils wish to set their own targets they can, and the policies in the Framework would not prevent such targets provided in their implementation they do not make development unviable.

xvii. Proactive approach to identifying opportunities for renewable and low carbon energy

32. The objective is to ensure that the planning system contributes effectively to the delivery of the Government's energy and climate change policy. The preferred option expects local authorities to consider identifying suitable areas for renewable and low-carbon energy sources, and supporting infrastructure, where this would help secure the development of such sources. Where developers bring forward proposals outside opportunity areas mapped in a local or neighbourhood plan they are asked to demonstrate that the proposed location meets the criteria used in plan making. This should provide transparency, and bring greater predictability to the planning application process.

xviii. Historic environment:

33. The heritage section of the Framework incorporates – and streamlines - the existing policies contained in Planning Policy Statement 5. It does not alter those policies or create new ones. Certain policies in Planning Policy Statement 5 have been omitted from the heritage section and are incorporated, more appropriately, in other sections of the Framework. These are:-

- Part of policy HE1 (Heritage Assets and Climate Change)
- Policy HE2 (Evidence Base for Plan-making)
- Policy HE4 (Permitted Development and Article 4 Directions)

One policy - HE5 (Monitoring Indicators) - from Planning Policy Statement 5 has not been incorporated as a specific policy within the Framework. All other Planning Policy Statement 5 policies have been condensed and included within the heritage section. Some of the detail of these policies in Planning Policy Statement 5 is considered to constitute guidance rather than policy and could more suitably be issued as such.