MAIDSTONE BOROUGH COUNCIL

RECORD OF DECISION OF THE LEADER OF THE COUNCIL

Decision Made: 23 September 2011

PROPOSED CONSULTATION RESPONSE TO THE DRAFT NATIONAL PLANNING POLICY FRAMEWORK

Issue for Decision

To consider the proposed response to the Department of Communities and Local Government (DCLG) consultation on the Draft National Planning Policy Framework (NPPF).

Decision Made

That the amended Questionnaire, attached at Appendix A, be submitted as the formal response on behalf of Maidstone Borough Council to the current consultation on the draft National Planning Policy Framework.

Reasons for Decision

Background

The Government's stated intention in bringing together all planning policy guidance within one document was to simplify the rules and regulations governing planning in England. Extant planning guidance provides a massive amount of information about how development plans should be produced and how decisions on development management should be made and the draft NPPF states:

> "The policies set out in this Framework apply to the preparation of land and neighbourhood plans, and to development management decisions. Planning policies and decisions should be compatible with and where appropriate further the achievement of relevant EU obligations and statutory requirements set out in domestic legislation. The Framework should be read and interpreted as a whole." [1]

Current extant guidance comprises:

- PPS1 – Delivering Sustainable Development and its supplement Planning and Climate Change.
- PPG2 – Green Belts
- PPS3 – Housing
- PPS4 – Planning for Sustainable Economic Growth
- PPS5 – Planning for the Historic Environment
- PPS7 – Sustainable Development in Rural Areas
- PPG8 – Telecommunications

[1] Draft National Planning Policy Framework Paragraph 8

- PPS9 – Biodiversity and Geological Conservation
- PPS12 – Local Spatial Planning
- PPG13 – Transport
- PPG14 – Development on Unstable Land
- PPG17 – Open Space, Sport and Recreation
- PPG18 – Enforcing Planning Control
- PPG19 – Outdoor Advertisement Control
- PPG20 – Coastal Planning
- PPS22 – Renewable Energy
- PPS23- Planning and Pollution Control
- PPG24 – Planning and Noise
- PPG25 – Development and Coastal Change
- Minerals Policy Statements 1& 2,and Minerals Policy Guidance 2 ,3, 5, 7, 10, 13, and 15
- Circular 02/2005 Planning Obligations
- Letters to Chief Planning Officers dated Mar 1999, April 2003, April 2002, May 2008, November 2009, July 2009, May 2009 x 2, December 2009, February 2009, January 2009, June 2010, January 2010, December 2010 and January 2011.

It is important to note that the draft NPPF is a "Radical streamlining of existing Planning Policy Statements, Planning Policy Guidance Notes and **some** circulars to form a single consolidated document." (My emphasis) [2] There is currently no suggestion to cancel Circular 11/95 – Use of Conditions in Planning Permission, Circular 10/97 – Enforcing Planning Control, and Circular 03/2009 Costs Awards in Appeals and Other Planning Proceedings. The Department for Communities and Local Government has informally indicated that they intend to carry out a similar 'slimming down' exercise on Circulars once the draft National Planning Policy Framework has been adopted.

The Department for Communities and Local Government has indicated that it is intending to produce a Best Practice Guide to accompany the draft NPPF and this is welcomed however it is considered that it would be more appropriate to publish a draft Practice Guide to accompany the draft NPPF.

Given that it is the intention of the exercise to reduce the amount of guidance currently in use within the planning system the practice of continuing to issue draft guidance for consultation is somewhat confusing and does not aid clarity of understanding. A question is currently being posed in connection with the recent consultation on guidance for gypsies and travellers by CLG that states:

> "Do you have views on the consistency of the draft Framework with the draft planning policy for traveller sites, or any other comments about the Government's plans to incorporate planning policy on traveller sites into the final National Planning Policy Framework?"

It is considered that given the government's current stance towards treating Gypsy and Traveller Accommodation as part of the general housing stock planning policy on all planning matters, it should form part of the National Planning Policy Framework and therefore guidance on gypsy and traveller sites should be fully incorporated within the final

[2]Draft National Planning Policy Framework Consultation Paragraph 10

National Planning Policy Framework. Maidstone Borough Council would suggest that this occurs without delay.

The Consultation on the draft National Planning Policy Framework also contains a Consultation Questionnaire and this has been completed and is attached as Appendix 1 to this report.

Main Issues

The main changes introduced by the draft NPPF include:

- Presumption in favour of development
- Removing office development from 'Town Centre First' policy
- Time Horizon for assessing impacts
- Removing the maximum non-residential car parking standards for major developments
    - Peat
    - Landbanks
    - Removing the brownfield target for housing development
    - Requiring local councils to allocate an additional 20% of sites against the five year housing requirement
    - Removing the national minimum site size threshold for requiring affordable housing to be delivered
    - Removing rural exceptions sites policy
    - Protecting community facilities
    - Green Belt
    - Green Infrastructure
    - Green Space Designation
    - Clarification on which wildlife sites should be given the same protection as European sites.
    - Proactive approach to identifying opportunities for renewable and low carbon energy
    - Historic Environment

All the main changes are important but not all of them have major implications for Maidstone Borough Council, in particular changes to guidance on Peat Banks. This report is concerned with those major changes that will have the most impact within Maidstone, namely:

- Presumption in favour of development
- Removing Office development from Town Centre First policy
- Removing the maximum non-residential car parking standards for major developments
- Removing the brownfield target for housing development
- Requiring local councils to allocate an additional 20% of sites against the five year housing requirement
- Removing the national minimum site size threshold for requiring affordable housing to be delivered
- Removing rural exceptions sites policy
- Green Space Designation

A general commentary on other aspects of the proposed draft NPPF is also included below.

Presumption in favour of development

There is no explicit definition of what comprises 'Sustainable Development' despite the Minister's statement on 15 June 2011(as set out at Appendix 2 to the report of the Director of Change, Planning and the Environment). It would appear that what is actually being suggested is that development will need to accord with the requirements of the National Planning Policy Framework and not any particular definition of what comprises sustainable development. Clarity on the definition should be sought and would be welcome as it would bring a degree of certainty in somewhat uncertain planning times. It is however acknowledged that the draft NPPF references the Bruntland Commission in 1987 in paragraph 9 stating:

> "Sustainable development means development that meets the needs of the present without compromising the ability of future generations to meet their own needs."[3]

It is proposed that the default decision when it comes to development should be a presumption in favour of sustainable development. The Draft Framework states:

> "At the heart of the planning system is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan making and decision taking. Local planning authorities should plan positively for new development, and approve all individual proposals wherever possible. 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 planning permission where the plan is absent, silent, indeterminate or where relevant policies are out of date.
>
> All of these policies should apply unless the adverse impacts of allowing development would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole."[4]

What is not clear from the draft NPPF is whether the primacy of the development plan will continue and compared with the presumption in favour the question as to which will be the dominant policy tool must be posed? Whilst it is recognised that paragraph 62 states that the planning system is plan led, clarity on this point would be welcomed.

[3] Draft National Planning Policy Framework Paragraph 9, Our Common Future 1987
[4] Draft National Planning Policy Framework Paragraph 13

Removing Office Development from Town Centre First policy

This proposes the removal of the requirement to meet the sequential test when considering the location of office development . It allows for applications for office development to be judged on their individual merits whilst taking account of local and national policies on the location of new development that generates significant movements of people. The potential impact of this change combined with the changes expected in the General Permitted Development Order (GPDO) regarding change of use from office to residential could result in impacts on Maidstone Town Centre that would be difficult to resist and that may result in a town centre that is not capable of continuing its role as the County Town of Kent. It is therefore recommended that additional guidance is requested to avoid the over-concentration of residential development within town centres without the necessary accompanying social infrastructure.

Additionally, as a result of taking office development out of Town Centre First policy, this could cause damage to the lunch time economy of the town centre and it is therefore recommended that the policy be strengthened to ensure that local authorities retain the ability to direct the broad location of office development.

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

The proposal to remove the maximum non-residential car parking standards for major developments is welcomed as it allows Maidstone Borough Council the freedom to determine standards that are appropriate for local circumstances.

It is also noted that there will be a key requirement to have a travel plan. Paragraph 90 specifically states:

> "A key tool to facilitate this will be a Travel Plan. All developments which generate significant amounts of movement, as determined by local criteria, should be required to provide a Travel Plan."[5]

Again the freedom to determine locally what constitutes significant amounts of movement is welcomed as this will allow in particular the concerns of Members about the impact of development on the rural road network to be given full and proper consideration. The requirement for development applications to incorporate Travel Plans will need to be included in the Development Delivery Document following on from the Core Strategy.

Removing the brownfield target for housing development

Whilst removing the target for brownfield housing development is to be welcomed in so far as this allows greater flexibility to determine the most appropriate locations for housing according to local circumstances it is still considered appropriate to look to previously developed land as a sustainable source of sites for housing. Maidstone Borough Council has

[5] Draft National Planning Policy Framework, Paragraph 90.

traditionally been successful at locating a very high percentage of housing developments on previously developed land but recognises that such land is a finite and dwindling resource.

Requiring local councils to allocate an additional 20% of sites against the five year annual requirement.

The requirement to allocate an additional 20% of sites against each year of the first five years of the annual housing requirement to allow for flexibility and choice is not considered to be appropriate and should be reconsidered. Maidstone Borough Council in determining an appropriate level of housing for the council's area have taken into account the environmental capacity of the borough and consider that the level of housing provision in the Draft Core Strategy represents the maximum level that can be accommodated without causing serious impacts that cannot be sufficiently mitigated against.

In determining the amount of housing the following factors were taken into consideration:

- The need for affordable housing;
- Synergy with the Kent Growth areas;
- The achievement of sustainable development;
- The focus of new development on the existing urban area;
- Supporting transport infrastructure;
- The impact of development on the environment; and
- The impact on water supply and flooding.

If the Council is now required to provide additional allocations during the first five years of the annual requirement this would mean that the Core Strategy would have to be delayed until such time as additional research had been carried out to investigate where the additional allocations could be located.

It is considered that the level of provision of housing included in the Core Strategy already includes a level of provision above that needed strictly to deal with demand to allow for choice and flexibility. There is a danger in making an additional allowance that the market, already moribund due to national economic circumstances, will become flooded with inappropriate additional provision.

It is therefore considered that the requirement to provide an additional 20% above the first five years supply should be removed from the draft framework due to the reasons stated above.

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

The removal of the national minimum site size threshold for requiring affordable housing to be delivered is to be welcomed as this allows Maidstone Borough Council the flexibility to determine the most appropriate local thresholds. In the absence of the practice guide to accompany the framework it is not possible to determine if the council will

be permitted to have a range of thresholds across the Borough to reflect local circumstances.

Maidstone Borough Council welcomes the removal of the minimum site size threshold as it believes that this will help to avoid the situation whereby developers deliberately seek to divide sites to avoid this requirement.

Removing the Rural Exceptions Sites Policy

If the intention of this is to allow for the provision of more affordable housing then it is welcomed. However it is considered that the burden of the requirement. (To prove that the provision of market housing will allow for the provision of additional levels of affordable housing on such exception sites) should fall on those proposing to develop the housing.

Local Green Space Designation

The ability to locally designate green spaces that are valued on a local basis is to be welcomed as this will allow the community to protect those areas and parts of the Borough that are important to them. It is noted that development on areas designated as Local Green Space will be subject to the same policy treatment as potential development within Green Belts.

Whilst this level of protection for the new designation is welcomed it is noted that elsewhere in the draft NPPF it is proposed to extend the definition of Major Developed Sites in areas of Green Belt to any such sites whether or not they have been previously indentified. It is considered that the proposed extension of building rights in the Green Belt is inappropriate and should be removed. Clarity on what will comprise 'exceptional circumstances' for the purposes of development within Local Green Spaces would be welcomed as it is considered that given the changes to Green Belt policy more generically there is now some confusion as to what such circumstances might be.

Maidstone Borough Council is very concerned about the lack of protection for the countryside. The Council would ask that individual authorities be allowed the right to protect large swathes of land that are considered to be of great value to the people of the borough as it is furthered considered that the proposed arrangements relating to Local Green Space designation do not go far enough and provide insufficient protection for wider countryside landscapes.

Conclusions and Summary

In general the clarity that the draft National Planning Policy Framework brings is to be welcomed, however the following comments should be noted:

- The draft does little to encourage a balanced approach between the provision of employment land and the provision of housing. Maidstone Borough Council has been at pains to ensure that the Core Strategy represents a balance between jobs and housing

and the potential requirement to provide additional housing upsets this balance.

- The need for additional infrastructure required to service additional housing appears not to have been mentioned and it is important that infrastructure provision keeps pace with housing provision.
- The emphasis on the need for affordable housing is welcomed
- The need for an additional 20% on top of the first five years annual housing requirement is considered to be inappropriate and should be deleted.
- Clarity is required on several points:
    - The ongoing production of draft guidance not included within the draft National Planning Policy Framework is confusing and should cease.
    - Is the government intending to carry on using the Bruntland definition of sustainable development? Some thought should be given to updating this definition to make clear where government priorities lie
    - The relative positions of the presumption in favour of development as opposed to the plan led system requires clarification
    - Will the same 'exceptional circumstances' apply to development with Local Green Spaces as currently applied to Green Belt development or is this definition to be updated?
    - Clarity on what comprises 'Conformity with the National Framework' and what it means in practice should be given
- Consideration should be given to introducing some transitional arrangements that will allow local authorities some time to come into conformity with the Framework. A transitional period of at least 18 months is suggested as reasonable.
- Whilst the intention to produce a practice guide is noted Maidstone Borough Council considers that this practice guidance should be produced as soon as possible.
- It is considered that there are some changes to primary legislation required by the changes introduced by the draft National Planning Policy Framework and an indication of whether these changes are incorporated within the Localism Bill would be welcomed.
- Consistency on terms used throughout the document would be welcomed as the terms 'development' and 'sustainable development' appear to be used interchangeably.
- If Planning Circulars are to be subject to a similar 'slimming down' exercise this should be carried out as soon as is possible.

The report of the Director of Change, Planning and the Environment incorporates the recommendations of the Planning Committee held on 1st September 2011 and the Overview and Scrutiny Committee held on 5th September 2011.

Changes since publication

An additional paragraph has been added above immediately before the Conclusions and Summary since the report was published in order to more

accurately reflect Member concerns about the level of protection for wider landscapes that are felt to be worthy of additional protection. Additionally typographical errors have been corrected in Appendix 1 in respect of sections 5a, 7a, 10a and 17a and therefore the corrected version is now attached to this decision.

Alternatives considered and why rejected

The alternative action of not completing the Consultation Questionnaire and responding formally to the consultation exercise on the draft National Planning Policy Framework would mean that Maidstone Borough Council did not take the opportunity to influence how the NPPF develops and to put forward concerns about the apparent contradictions and need for clarity.

Background Papers

Draft National Planning Policy Framework July 2011

Should you be concerned about this decision and wish to call it in, please submit a call in form signed by any two Non-Executive Members to the Head of Change and Scrutiny by: **30 September 2011**