



## INFORMATION ITEM

REPORT OF	MEETING	DATE	ITEM NO
DEVELOPMENT SERVICES DIRECTORATE	PLANNING COMMITTEE	1 AUGUST 2018	5
<b>RESPONSE TO GOVERNMENT CONSULTATION ON PROPOSED REVISIONS TO THE NATIONAL PLANNING POLICY FRAMEWORK</b>			

### PUBLIC ITEM

This item is for consideration in the public part of the meeting.

#### SUMMARY OF INFORMATION

The Ministry of Housing, Communities and Local Government consulted on proposed changes to the National Planning Policy Framework between 5 March and 10 May 2018. The proposed changes seek to implement revisions to the planning system set out in the Housing White Paper in February 2017. A response was prepared, focusing on those elements of the Framework that are most relevant to planning & housing matters impacting upon Fylde. Draft Planning Practice Guidance was also published alongside the Framework, but was not part of the consultation. Government are currently analysing the consultation responses and it is expected that a revised Framework will be issued later this year.

#### SOURCE OF INFORMATION

Response to Ministry of Housing, Communities and Local Government prepared by Head of Planning & Regeneration

#### LINK TO INFORMATION

[NPPF 2018 FBC Response](#)

#### WHY IS THIS INFORMATION BEING GIVEN TO THE COMMITTEE?

The response to the consultation on the proposed revisions to National Planning Policy Framework was prepared by the Head of Planning & Housing in line with the council's scheme of delegation. This information is provided in order to inform Elected Members of the response submitted on behalf of Fylde Council.

#### FURTHER INFORMATION

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**Q1 Do you have any comments on the text of Chapter 1?**

FBC response

No

**Q2 Do you agree with the changes to the sustainable development objectives and the presumption in favour of sustainable development?**

FBC response

Yes. However it is considered that chapter 2 should also contain reference to the duties and responsibilities of developers and other public/semi-public bodies to have regard to the principles of sustainable development in developing their projects

**Q3 Do you agree that the core principles section should be deleted, given its content has been retained and moved to other appropriate parts of the Framework?**

FBC response

Removal of duplication seems reasonable, however not when it is at the expense of clarity of purpose. Setting out the core planning principles at an early point in the document, potentially in a more summarised form than in the current Framework would help in setting the context for the remainder of the document.

**Q4 Do you have any other comments on the text of Chapter 2, including the approach to providing additional certainty for neighbourhood plans in some circumstances?**

FBC response

Additional certainty for neighbourhood plans is supported, however, caution should be exercised in introducing the Housing Delivery Test ahead of the proper consideration of the Letwin report. The Letwin final report must have implications for the delivery test as it intended to address the many barriers to delivery that are outside the influence of Local Planning Authorities.

**Q5 Do you agree with the further changes proposed to the tests of soundness, and to the other changes of policy in this chapter that have not already been consulted on?**

FBC response

The revised wording of the soundness tests is supported. The requirement for a development plan to represent **an** appropriate strategy taking into account reasonable alternatives and based on proportionate evidence is welcomed and should assist in speeding the delivery of local plans. Equally, the requirement to produce a positively prepared strategy to meet as *much as possible* of an area's OAHN and meeting unmet need from neighbouring authorities where it is "practical to do so" provides important clarification to the extent of these requirements.

**Q6 Do you have any other comments on the text of Chapter 3?**

FBC response

No

**Q7 The revised draft Framework expects all viability assessments to be made publicly available. Are there any circumstances where this would be problematic?**

FBC response

In the interests of transparent decision making, Fylde Council considers that such information should be made available to the public. However, there is generally resistance to this approach by developers and their concerns regarding the publication of commercially sensitive information may impact upon the thoroughness and so usefulness of their submissions.

**Q8 Would it be helpful for national planning guidance to go further and set out the circumstances in which viability assessment to accompany planning applications would be acceptable?**

FBC response

Such guidance would be useful, however, it would be difficult to produce guidance that addresses all circumstances. As such the guidance should remain flexible.

**Q9 What would be the benefits of going further and mandating the use of review mechanisms to capture increases in the value of a large or multi-phased development?**

FBC response

During the extended period of time over which large scale developments will inevitably be delivered, it is likely that there will be changes in circumstances that will impact upon the viability of a project. Fylde has already approved two major developments that include requirements to conduct reappraisals at key milestones in the delivery of development and, where viability permits, require additional community benefit to be provided which had been shown to be unviable in an initial appraisal. Accordingly national policy support for this approach would be welcomed

**Q10 Do you have any comments on the text of Chapter 4?**

FBC response

Paragraph 50b) makes reference to the scope for prematurity by making reference to the emerging plan being at an advanced stage but not yet formally part of the development plan. This raises questions as to when a plan will have reached an advanced stage. Paragraph 51 is more specific in that a local plan has to be at submission stage or a neighbourhood plan to have reached the end of the LPA publicity period and so, by dispensing with ambiguity is Fylde Council's preferred approach

**Q11 What are your views on the most appropriate combination of policy requirements to ensure that a suitable proportion of land for homes comes forward as small or medium sized sites?**

FBC response

Fylde Council has not seen any absolute relationship between the size of site and the size of company that eventually delivers that site. Several small sites have been delivered by major house builders whilst a local housing developer, who are a medium sized enterprise, has developed a number of large sites including one for almost 1000 dwellings. Small lucrative sites will be marketed by the site owner who will seek maximum return and is likely to be approached by larger companies who employ site finders. If government wishes to provide opportunities for SMEs, consideration should be given to introducing incentives for developers to share the development of larger sites.

**Q12 Do you agree with the application of the presumption in favour of sustainable development where delivery is below 75% of the housing required from 2020?**

FBC response

No. During recent years in Fylde developers have delivered, on average, only 7% of the plots with planning permission. This demonstrates conclusively that there are many barriers to delivery and given delivery is outside the control of local planning authorities it is not appropriate to use delivery as a measure by which a presumption in favour of sustainable development should be imposed. The Letwin Review is currently considering barriers to delivery and implementation of any HDT should, at least, await the findings of this review. Further consideration also needs to be given to how the HDT would operate alongside the 5 year housing supply requirement. The use of two separate tests of delivery based on different criteria could mean that addressing underperformance in one, would lead to failure to meet the other and so trigger the presumption in the corresponding test. For example addressing a predicted shortfall in the HDT by increasing the annual housing figure could result in a council failing to meet the 5 year housing supply test. Fylde Council is general opposed to councils being held solely responsible for poor delivery, it is certainly not considered necessary to have two separate tests of delivery imposed.

**Q13 Do you agree with the new policy on exception sites for entry-level homes?**

FBC response

Not as set out in the draft document. Whilst Fylde Council supports the use of exception sites to deliver affordable homes in rural areas, such proposals should be solely for affordable or entry level housing rather than a “high proportion” of entry level homes. Whilst the Framework should set the general parameters for the provision of exception sites, It would be more appropriate for the detail of such sites to be contained within development plans which can better reflect local circumstances.

**Q14 Do you have any other comments on the text of Chapter 5?**

FBC response

The stated objective of the introduction of a standard methodology is to reduce debate and speed the delivery of local plans. As currently phrased in the guidance, the starting point will be changed, but there will still follow considerable representation from housing developers in circumstances where the standard methodology returns a low figure. Earlier ministerial statements indicated that any decision to provide a figure above that derived from the standard methodology, for example to support the economic objectives of an authority, should rest with the LPA and should not be an opportunity to open debate or challenge to the base figure. It is considered that this clarification should be explicitly provided

Paragraph 65 makes reference only to affordable home ownership. It is important that through its Development Plan a LPA can identify its needs for an area including housing mix, housing needs and that should include for the percentage of affordable and the tenure mix, which should include both sale and rent. National policy should not dictate local housing need in terms of tenure split.

The consultation proposals has also removed the need for the financial contribution to be “broadly equivalent” to on site provision – this is likely to cause uncertainty and will therefore slow down negotiations over what an appropriate contribution might be.

In assessing deliverable supply, Chapter 5 cross references to the Glossary definition. This requires a deliverable site to be “Sites with outline planning permission, permission in principle, allocated in the development plan or identified on a brownfield register should only be considered deliverable where there is clear evidence that housing completions will begin on site within five years.”

This places significantly more burdens on the Local Planning Authority to evidence the inclusion of housing sites within the 5 year supply. This reverses the position that was established in the court of appeal (St Mowden v SoS) which concluded that planning cannot deal in absolute certainties and that there need only be a 'realistic prospect' of the delivery of sites, that expected delivery rates should be taken up at the Local Plan examination stage and that Local Planning Authorities do not control the housing market. The current NPPF dealt with the capability of being delivered not the certainty. There is no definition of what 'clear evidence' is required, and this therefore remains a matter of significant concern to Fylde Council as this will only seek to make the demonstration of a 5 year supply more difficult, delay work and place additional costs / resource implications on the Planning Service.

**Q15 Do you agree with the policy changes on supporting business growth and productivity, including the approach to accommodating local business and community needs in rural areas?**

FBC response

Yes

**Q16 Do you have any other comments on the text of chapter 6?**

FBC response

Fylde Council welcomes this chapter, which will assist in promoting sustainable areas and communities. However, the existing permitted development rights create a tension with this aspiration and have and are resulting in the closure of viable businesses which is of significant concern. There should be policies that encourage the re-use and appropriate redevelopment of redundant employment sites but not a blanket permitted development for conversion which results in the closure of viable businesses and also the creation of residential uses without any compliance to space standards or other amenity issues. The permitted development is not providing the right type of homes necessarily and its use is contrary to the aims of the NPPF for sustainable development. It would be better to have national and local policies guiding development than allowing poorly located substandard development through the implementation of permitted development rights.

**Q17 Do you agree with the policy changes on planning for identified retail needs and considering planning applications for town centre uses?**

FBC response

Due to the inadequacies of the existing sequential test, operators are seeking to create more and more out of town floor space, even at a time of bricks and mortar retail stagnation. This is coming at the expense of existing town centres. Revisions to the Framework should provide greater protection to town centres by clarifying that large out of centre schemes should be subject to disaggregation through the sequential test. At present, the larger an out of town scheme is, the easier it appears to be to pass the sequential test. This is particularly important in a small borough where town centres are small and so vulnerable to large scale out of centre retail developments.

**Q18 Do you have any other comments on the text of Chapter 7?**

FBC response

Similar to the answer to Q16 the implementation of permitted development rights in some cases is running contrary to the aspirations of the NPPF and local Development Plans and is actually harming the appearance and viability of Town centres, while providing in some cases for substandard accommodation. It would be better for the permitted development rights aspect to be deleted and for appropriate encouragement in national and local policy

**Q19 Do you have any comments on the new policies in Chapter 8 that have not already been consulted on?**

FBC response

Fylde Council welcomes the chapter on promoting healthy and safe communities

**Q20 Do you have any other comments the text of Chapter 8?**

FBC response

Additional emphasis needs to be given to the need for infrastructure and service providers to positively engage effectively with the planning process to enable a coherent and complementary approach.

As the available opportunities to expand existing schools are being exhausted the need to open new school provision is becoming crucial to help meet forecast demand. Firstly, existing pooling arrangements make the delivery of new schools (as well as other essential large infrastructure requirements) unattainable. The delivery of new schools is also subject to various legislative controls set out in the Education Acts that undermine the planning process – for example separate consultation arrangements that need to be conducted by a Local Education Authority can prevent a scheme being identified at the plan making stage.

**Q21 Do you agree with the changes to the transport chapter that point to the way that all aspects of transport should be considered, both in planning for transport and assessing transport impacts?**

FBC response

The inclusion of a specific mention of capacity, congestion and road safety in the consideration of transport impact is welcomed.

**Q22 Do you agree with the policy change that recognises the importance of general aviation facilities?**

FBC response

Unusually for a small borough, Fylde is home to two main runways, Blackpool Airport and BAE Systems' Warton Site. As such the council considers many proposals that could have an adverse impact on the safe operation of these facilities. Further guidance is required to determine the scale at which such facilities need to be retained and the role of such facilities, having regard to potential, as well as existing, levels of use

**Q23 Do you have any other comments on the text of Chapter 9?**

FBC response

No

**Q24 Do you have any comments on the text of Chapter 10?**

FBC response

No

**Q25 Do you agree with the proposed approaches to under-utilised land, reallocating land for other uses and making it easier to convert land which is in existing use?**

FBC response

It is important that any proposals to promote alternative uses for underutilised land address the requirements of the plan period. For example a site allocated for employment use may have been allocated on the basis of its requirement to provide employment opportunities later in the plan period. An application to develop the site for a residential or retail use because it has not been developed at an early stage of the plan could undermine the delivery of the economic objectives of a plan.

**Q26 Do you agree with the proposed approach to employing minimum density standards where there is a shortage of land for meeting identified housing needs?**

FBC response

Fylde Council supports the efficient use of land, but this must be linked to other chapters particularly in terms of requiring high quality design and appropriate amenity space.

**Q27 Do you have any other comments on the text of Chapter 11?**

FBC response

No

**Q28 Do you have any comments on the changes of policy in Chapter 12 that have not already been consulted on?**

FBC response

The role of good design as a key aspect of sustainable development that is indivisible from good planning has been lost and should be reinstated at the head of the chapter in order to emphasise the importance of achieving good design.

It is considered that further guidance should be produced to explain how the intentions of the Framework can be effectively translated to good development on the ground – for example by making sure that Design and Access Statements inform the design of a development rather than being written retrospectively to justify the design that has been produced.

It is also considered that paragraph 126 should be expanded to include explicit reference to the role of public/semi-public bodies in delivering good design. For example highway authorities are specifying materials based on minimal maintenance cost and standardised approaches rather than the design quality of the finished product. This approach is producing standardised mundane responses and limiting the ability of developers to deliver schemes that respond to local character and vernacular.

**Q29 Do you have any other comments on the text of Chapter 12?**

FBC response

There is no mention of the value of street trees and landscaping in this Chapter. In the entire consultation proposals, trees are only mentioned in the context of protecting ancient woodland. As well as protecting historic trees it is essential to promote new tree planting. Trees, hedges and landscaping have multiple benefits, e.g. to fulfil the government commitments to Health and Wellbeing, creating streets that promote sustainable travel

**Q30 Do you agree with the proposed changes to enable greater use of brownfield land for housing in the Green Belt, and to provide for the other forms of development that are 'not inappropriate' in the Green Belt?**

FBC response

Paragraph 145 introduces the test of developments on previously developed land not leading to substantial harm to the openness of the Green Belt rather than the previous test of having no greater impact on the openness of the Green Belt. Whilst the original wording required an element of judgement, it is considered that the new wording will be open to wider interpretation without any guidance as to what constitutes “substantial” harm.

**Q31 Do you have any other comments on the text of Chapter 13?**

FBC response

No

**Q32 Do you have any comments on the text of Chapter 14?**

FBC response

No

**Q33 Does paragraph 149b need any further amendment to reflect the ambitions in the Clean Growth Strategy to reduce emissions from buildings?**

FBC response

No

**Q34 Do you agree with the approach to clarifying and strengthening protection for areas of particular environmental importance in the context of the 25 Year Environment Plan and national infrastructure requirements, including the level of protection for ancient woodland and aged or veteran trees?**

FBC response

As with paragraph 118 of the current NPPF, the draft revision does not extend broad protection to all trees and woodlands, and therefore leaves creation of that level of protection to district councils using adopted policies, tree strategies and the tree preservation order system, without the ultimate support of specific national policy.

Para 173 ( c ) collapses because trees and woodlands outside of those in ancient woodlands are not given national policy protection, and worse, are not mentioned. Ancient woodlands only gain mention parenthetically, and the sentence treating “aged or veteran trees” leaves LPA’s confused as to the location of the trees it refers to, because the term used to describe them does not make the spatial relationship of the aged or veteran trees to ancient woodland clear. It reads as if the trees must be outside of, but in proximity to, the ancient woodland. This leaves veteran tree in open areas unprotected.

The omission of national level policy protection for trees and woodlands in the general sense should be addressed in the NPPF. There is a failure to connect to other government documents, such as

- EU Strategic Plan for Biodiversity 2011 to 2020 strategy
- The UK’s commitment to the Aichi Biodiversity Targets
- The Biodiversity Strategy for England – this recognises all lowland deciduous woodlands as priority habitat.
- The 25 year Environment Plan

Importantly, The 2011 Defra publication “***The Natural choice: securing the value of nature***” made promises to change the planning system for the benefit of nature. This revised framework is an opportunity to embed those changes in national policy.

*“Through reforms of the planning system, we will take a strategic approach to planning for nature within and across local areas. This approach will guide development to design and enable development to enhance natural networks. We will retaining the protection and improvement of the natural environment as core objectives of the planning system...”*

(The Natural Choice: securing the value of nature, Defra 2011, pp3)

Trees and woodland are recognised not only for their amenity value but more importantly for the green infrastructure services. Obviously these services are not the preserve of ancient woodlands but are delivered, largely *gratis* by all trees and woodlands. It's a role that has recently been identified by government and now finds itself in government guidance –

*Green infrastructure provides multiple benefits, notably eco-system services, at a range of scales, derived from natural systems and processes, for the individual, for society, the economy and the environment. Green infrastructure should, therefore, be a key consideration in both local plans and planning decisions where relevant.”*

([planningguidance.communities.gov.uk/blog/guidance/natural-environment/green-infrastructure/](http://planningguidance.communities.gov.uk/blog/guidance/natural-environment/green-infrastructure/))

The benefits derived from tree and woodland tend to align themselves neatly with the corporate goals of most local authorities and thus are a “good fit” for protection and conservation. LPAs are less able to provide the protection necessary if the NPPF does not underlie their policies and decisions.

The NPPF needs policies specific to all woodlands and all trees so that LPAs are able to defend those in their own urban forest against the backdrop of clear national policy.

Ancient woodlands, as irreplaceable habitat, merit special protection by separate policy. Veteran trees, irrespective of their spatial relationship to ancient woodlands, are known to represent micro-eco systems in their own right. In Europe, this resource has been almost totally lost owing to a historic failure to recognise and protect them. Veteran trees are not ideal candidates for a tree preservation order because many of their valuable habitat features such as fungi, deadwood and decay cavities render them unsuitable for TPO. That leaves LPAs unable to protect them at local level, and represents a gap in protection of an irreplaceable biodiversity asset. At this juncture, the NPPF could address this.

#### **Q35 Do you have any other comments on the text of Chapter 15?**

FBC response

No

#### **Q36 Do you have any comments on the text of Chapter 16?**

FBC response

No

#### **Q37 Do you have any comments on the changes of policy in Chapter 17, or on any other aspects of the text of this chapter?**

FBC response

No

#### **Q38 Do you think that planning policy on minerals would be better contained in a separate document?**

FBC response

Yes

**Q39 Do you have any views on the utility of national and sub-national guidelines on future aggregates provision?**

FBC response

No

**Q40 Do you agree with the proposed transitional arrangements?**

FBC response

In general the phased approach to the implementation of plan making and immediate implementation of decision taking aspects is welcomed. The suitability of the implementation of the proposed HDT ahead of the Letwin Review is questioned.

**Q41 Do you think that any changes should be made to the Planning Policy for Traveller Sites as a result of the proposed changes to the Framework set out in this document? If so, what changes should be made?**

FBC response

No

**Q42 Do you think that any changes should be made to the Planning Policy for Waste as a result of the proposed changes to the Framework set out in this document? If so, what changes should be made?**

FBC response

No

**Q43 Do you have any comments on the glossary?**

FBC response

The definition of affordable housing has been amended to remove reference to social rents. Fylde council has identified a need to deliver a wide range of affordable housing from social rent to discount market sale. It is considered that the nature of the tenures should remain to be determined through the application of local policy where this is viable and can be evidenced.