



B O S T O N

B O R O U G H C O U N C I L

REPORT TO:	Planning Committee
DATE:	18 September 2018
SUBJECT:	National Planning Policy Framework 2018
PORTFOLIO HOLDER:	Councillor Michael Cooper
REPORT AUTHOR:	Lisa Hughes
EXEMPT REPORT?	No

SUMMARY

The Government published the updated National Planning Policy Framework (NPPF) 2018 on 24th July. The new NPPF came into force with immediate effect. The amended framework has a number of subtle and less than subtle changes compared to the 2012 version. A number of areas provide clarification and new direction. In summary, the proposed changes to the Framework include:

- Planning Application and Local Plan considerations;
- Housing Delivery Test;
- Requirement for smaller sites to deliver housing;
- Affordable Housing;
- Housing in isolated areas;
- Revised definition of 'deliverable';
- Promote efficient use of land;
- Viability; and
- Pressure to determine applications as quickly as possible.

RECOMMENDATIONS

That Committee note the contents of this report.

REASONS FOR RECOMMENDATIONS

Amended National Policy has been issued by Government.

ALTERNATIVES CONSIDERED

Not applicable

1 REPORT

- 1.1 This reports sets out the changes within the National Planning Policy Framework (NPPF) 2018 compared to the 2012 NPPF.
- 1.2 The new NPPF was published on the 24th July and came into force with immediate effect for development management i.e. the determination of planning applications. There are transitional arrangements for local plans, however for Boston Borough Council, the South East Lincolnshire Local Plan (SELLP) will be assessed against the 2012 NPPF and Planning Practice Guidance, in other words there is no change in terms of the adoption of the local plan.
- 1.3 The new NPPF states it should be read as a whole including its footnotes and annexes. There is a focus within the NPPF on:
- Building the right number of homes in the right places;
 - Promoting high quality design of new housing and places;
 - Attaching greater weight to Neighbourhood Planning; and
 - Greater responsibility and accountability of Councils and Developers for the delivery of housing.
- 1.4 The new NPPF provides clarification and new direction compared to the 2012 version, responding to a number of appeal decisions and legal challenges. In summary, the key changes applicable to Boston Borough Council are:
- Planning Application and Local Plan considerations;
 - Housing Delivery Test;
 - 5 Years Housing Land Supply;
 - Requirement for smaller sites to deliver housing;
 - Affordable Housing;
 - Housing in isolated areas;
 - Revised definition of 'deliverable';
 - Promote efficient use of land;
 - Viability;
 - Pressure to determine applications as quickly as possible.

Planning Application and Local Plan considerations

- 1.5 The Framework came into force with immediate effect for development management (i.e. planning application decision making). However, there are transitional arrangements for local plans. Plans which have been submitted to the Secretary of State before 24th January 2019, as is the case for the Borough, will be assessed against the 2012 Framework and Planning Practice Guidance.
- 1.6 In addition, paragraph 6 states that other statements of government policy may be material when preparing plans or determining planning applications, such as Written Ministerial Statements and endorsed recommendations of the National Infrastructure Commission.

- 1.7 Paragraph 33 states Policies in local plans should be reviewed to assess whether they need updating at least once every five years and should be updated as necessary. With a new Local Plan imminently to be adopted, there will be time to both monitor the effectiveness of the new Policies and also assess how the review processes need to be formalised.

Housing Delivery Test

- 1.8 The presumption in favour of sustainable development (paragraph 11) applies only where delivery of housing is substantially below the housing requirement. The housing requirement is based upon a local housing need assessment unless exceptional circumstances justify an alternative approach. The new Local Plan will effectively set the housing requirement. The Government will publish the first set of Housing Delivery Test (HDT) results in November 2018, and annually thereafter. The requirements within paragraph 11 will be triggered when:
- a) November 2018 HDT results indicate that delivery was below 25% of housing required over the previous three years;
 - b) November 2019 HDT results indicate that delivery was below 45% of housing required over the previous three years;
 - c) November 2020 HDT results indicate that delivery was below 75% of housing required over the previous three years.
- 1.9 For this Council, it is anticipated that when the first set of results are published it will show compliance with delivering the Borough's housing requirement. Going forward, both the implications of the Housing Delivery Test and 5 Year Housing Land Supply Assessment (below) will require a more forensic approach to site assessment.

Five Year Housing Land Supply

- 1.10 In addition to the Housing Delivery Test, the NPPF also retains the need for maintaining a 5 year housing land supply but with some changes in requirements. To some extent both requirements cross over with each other and it is not entirely clear at present, if the 3 year assessment (required by the Housing Delivery Test) or the 5 year assessment will be given more weight. The revisions to the 5 year housing land supply assessment include:
- a) no requirement of a 20% uplift to supply if over the last 3 years delivery has been 85% or above;
 - b) a 5% or 10% uplift to supply might be required subject to particular circumstances (i.e. 5% to maintain "choice and competition", 10% where "an annual position statement" is issued);
 - c) the contribution made by student accommodation and Houses in Multiple Occupation should be assessed;
 - d) need for consultation with developers and applicants to provide evidence of likely delivery.

- 1.11 It should be noted that both the requirements of the 5 Years Housing Land Supply and the Housing Delivery Test are awaiting the aforementioned publication in November 2018. That being said the new adopted Local Plan will set the particular housing requirement context for the Borough.

Requirement for smaller sites to deliver housing

- 1.12 This is a new requirement introduced under paragraph 68. This identifies small and medium sized sites as making an important contribution towards meeting the housing requirements of an area. Development plans and brownfield registers are required to accommodate at least 10% of housing on sites up to 1 hectare, unless it can be shown why this cannot be achieved.
- 1.13 Within the South East Lincolnshire Local Plan (SELLP), a total of 9 sites below 1 hectare have been allocated for housing within Boston, Bicker, Butterwick and Wigtoft with an anticipated site capacity of 185. This is below the 10% threshold, however due to the SELLP being considered under the 2012 Framework, this is not an immediate issue although would need to be considered going forwards. It is anticipated that a significantly higher proportion than 10% could be identified taking into account potential sites below 0.5 ha (which the emerging Local Plan has not included as allocations) existing, extant planning applications and when infill opportunities (particularly in Boston and the larger villages) have been assessed.
- 1.14 Paragraph 68 also supports the development of windfall sites, giving great weight to the benefits of using suitable sites within existing settlements for homes. Lastly, planning authorities are advised to work with developers to encourage the sub-division of large sites to speed up the delivery of homes.

Affordable Housing

- 1.15 At least 10% of homes on major sites should be for affordable home ownership. SELLP Policy 18 complies with this, requiring 20% to be provided. Paragraph 64 provides exceptions to this requirement, including:
- Housing solely for Build to Rent homes;
 - Specialist accommodation, such as purpose-built homes for elderly or students; or
 - Developments by people who wish to build or commission their own homes.
- 1.16 In addition, the definition of Affordable Housing has been broadened to include affordable housing for rent, starter homes, discounted market sales housing or other shared equity at least 20% below local market value and rent to buy.

Housing in isolated areas

- 1.17 Former paragraph 55 in the 2012 NPPF has been updated within paragraphs 78 and 79. These paragraphs are similar to 55, although have two differences. Paragraph 78 includes a requirement for “Planning policies should identify opportunities for villages to grow and thrive, especially where this will support local services”. Paragraph 79 permits the subdivision of an existing residential dwelling in isolated areas.
- 1.18 The SELLP complies with paragraph 78 permitting development (including housing) within the defined settlements within the Borough (i.e. infill development within village boundaries). The sub-division of dwellings is a new approach. At this time, it is not envisaged that there is likely to be a significant number of isolated dwellings within the borough that might benefit from this policy change whilst also being of a sufficient size to provide reasonable living conditions for future occupiers.

Revised definition of ‘deliverable’

- 1.19 For inclusion within a 5-year housing land supply (see above), the Council will be required to demonstrate clear evidence that housing completions will begin on site within 5 years for those sites with outline permission, permission in principle or allocated in the development plan or brownfield register. The onus of demonstrating deliverability therefore falls to the Council, rather than the developer to prove a site is undeliverable. Sites of fewer than 10 dwellings or with detailed planning permission will be considered deliverable in the 5 year period until planning permission expires or clear evidence exists to prove otherwise.
- 1.20 It should be noted that in preparing the new Local Plan, landowners and developers were asked to provide evidence of when they anticipated development to come forward.

Promote efficient use of land

- 1.21 Paragraph 122 requires policies and decisions to make efficient use of land. This includes the desirability of maintaining an area’s prevailing character and setting (including residential gardens), or of promoting regeneration and change. Minimum density standards should be included within local plans for town centres and other locations well served by public transport. Such policies should seek a significant uplift in the average density of residential development within these areas, unless there are strong reasons why this would not be appropriate. Local planning authorities are advised to refuse planning applications which fail to make efficient use of land.
- 1.22 For Boston, one of the key challenges for developers is Flood Risk. This has impact upon the amount of a site that might be developed with a need to retain sufficient soft landscaped areas to provide appropriate mitigation. It is therefore less likely that densities will increase significantly, although it might be possible, in appropriate locations, to permit developments of more than 2 or 3 storeys in height.

- 1.23 Opportunities to use the airspace above existing residential and commercial premises for new homes is supported at paragraph 118(e). Upward extensions should be permitted where the development would meet with the prevailing height and form of neighbouring properties and overall streetscene. Such properties are required to be well-designed, maintain safe access and egress for occupiers.
- 1.24 It is not anticipated that there is likely to be a significant number of planning applications submitted to the Council in relation to the preceding paragraph. Boston itself, due to its historic character is unlikely to have many locations where new homes could be provided above existing buildings. Within the settlements, general building form is primarily of single or two storey dwellings which are unlikely to be targeted for such development.

Viability

- 1.25 With the publication of the revised NPPF, the National Planning Practice Guidance (NPPG) has also been changed. The NPPF identifies where up-to-date policies have set out contributions expected from development, planning applications that comply with them shall be assumed to be viable. It is for the applicant to demonstrate where particular circumstances justify the need for a viability assessment at application stage. The weight to be attached to such an assessment is to be determined by the decision maker, having regard to all evidence, including whether the plan and viability evidence supporting it is up to date, change in circumstances since the plan was brought into force. All viability assessments should reflect the recommended approach in the NPPG and should be made publicly available.
- 1.26 The issue of whether viability assessments should be made publicly available has been a challenge for planning authorities as developers will generally state that the information contained within, is confidential. Clarification within the NPPF is helpful.
- 1.27 In terms of land value for any viability assessment, the NPPG makes it clear that a benchmark land value should be calculated based on the Existing Use Value of the land, plus a premium for the landowner. The assessment should assume a return of 15 to 20 per cent of gross development value for the developer in appropriate circumstances. The NPPG recognises that a lower figure 'may be more appropriate in consideration of delivery of affordable housing in circumstances where this guarantees an end sale at a known value and reduces the risk'. It also acknowledges that different figures may be appropriate for different development types. An Existing Use Value plus approach categorically excludes the price paid for the land being used in viability assessments.
- 1.28 Clarifying that the price paid for land is not to be used is beneficial to Councils as many debates over viability assessments relate to the price paid rather than the Existing Use Value. However, for sites that developers may have purchased over recent years based on potential use value, this could have impact upon delivery of housing.

- 1.29 Additionally, Section 106 Planning Obligations must (rather than should) only be sought where they meet all of the relevant tests as defined within Regulation 122(2) of the Community Infrastructure Regulations 2010.
- 1.30 Whilst the SELLP has an affordable housing target and refers to infrastructure requirements for developments within the Borough, sums are not included for developers. The Council is looking to adopt a Supplementary Planning Document relating to sums required for the various types of infrastructure in due course.

Pressure to determine applications as quickly as possible

- 1.31 There remains the requirement to determine applications as quickly as possible. Supporting information should only be requested when it is relevant, necessary and material to the application being considered. The front loading of planning applications i.e. at pre-application stage is promoted. Further clarity is provided regarding Planning Performance Agreements. As well as identifying that applicants and planning authorities should consider their potential for delivering a faster and more effective application process, they are identified as likely being needed for particularly large or contentious applications.
- 1.32 As part of this agenda is an updated Pre-application Protocol which includes reference to Planning Performance Agreements.
- 1.33 The requirement for planning conditions to be kept to a minimum is retained and for these to only be imposed where necessary. Pre-commencement conditions should be avoided unless there is clear justification. Such conditions require information to be submitted to the local planning authority for approval prior to development commencing on site. Such an approach is considered to slow development down and add cost for developers. Legislation comes into force from the 1st October under the Town and Country Planning (Pre-commencement Conditions) Regulations 2018, requiring planning authorities to give 10 working days notice of the imposition of a pre-commencement condition. The developer can agree to the imposition within the 10 days enabling the decision to be issued earlier, or can refuse to have the condition imposed. The planning department has moved away from imposing pre-commencement conditions unless necessary, the legislation will therefore have less impact on the Council compared to other authorities. If an applicant refuses to have a pre-commencement condition attached and it is necessary, it is likely that permission would be refused.
- 1.34 The area where this change in legislation might have greatest impact are those decisions made by Planning Committee. This would particularly apply for a decision recommended by Officers as a refusal which is overturned. Should pre-commencement conditions be required, there would be a delay of up to 10 working days before the decision can be issued, which could impact upon performance. Also, any additional condition imposed by Planning Committee could also have the same impact. This is less likely to occur as, in the majority of instances, additional conditions usually relate to work either post development or post commencement.

CONCLUSION

The 2018 NPPF will have impact upon the determination of planning applications. The changes might result in the outcome of planning applications, in some instances, being different to when considered under the 2012 NPPF, however for the Council, the greatest change in decision making will be the adoption of the SELLP.

FINANCIAL IMPLICATIONS

None.

LEGAL & EQUALITY IMPLICATIONS

None, not already considered by the Government in introducing the revised NPPF.

ANY OTHER IMPLICATIONS

None

CONSULTATION

No consultation undertaken.

APPENDICES

None

BACKGROUND PAPERS

Background papers used in the production of this report are listed below:-

Document title	Where the document can be viewed
<i>National Planning Policy Framework 2018</i>	https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/734407/National_Planning_Policy_Framework_print_version.pdf
<i>National Planning Policy Framework 2012</i>	http://webarchive.nationalarchives.gov.uk/20180608095821/https://www.gov.uk/government/publications/national-planning-policy-framework--2
<i>South East Lincolnshire Local Plan</i>	http://www.southeastlincslocalplan.org/wp-content/uploads/2018/07/Schedule-of-proposed-Main-Modifications.pdf

Town and Country Planning (Pre-commencement Conditions) Regulations 2018	http://www.legislation.gov.uk/uksi/2018/566/made
CHRONOLOGICAL HISTORY OF THIS REPORT	
<i>None</i>	