

BABERGH DISTRICT COUNCIL

FROM: Head of Natural and Built Environment	Report Number: L81
TO: Strategy Committee	Date of Meeting: 6 October 2011

DRAFT NATIONAL PLANNING POLICY FRAMEWORK: RESPONSE TO CONSULTATION

1. Purpose of Report

- 1.1 To outline the main provisions of the draft National Planning Policy Framework produced by the Department of Communities and Local Government and for the Strategy Committee to agree Babergh's response. It is open for Members, Town and Parish Councils to make representations independently if they so wish.

2. Recommendation

- 2.1 That, subject to any additional comments the Committee may wish to make as a result of its consideration of this report, the draft comments set out in the commentary boxes contained within this report be used as the basis for the District Council's formal response to the Department of Communities and Local Government.
- 2.2 That the Head of Natural and Built Environment, in consultation with the Chairman of the Strategy Committee, be authorised to finalise the submission to the Department of Communities and Local Government subject to any revisions not altering the substance of the response.

The Committee is able to resolve this matter.

3. Financial Implications

- 3.1 There are no financial implications arising directly from the content of this report. While the provisions of the Draft National Planning Policy Framework may reduce the burdens placed upon local authorities in the future, there can be no certainty that the document will not lead to additional costs having to be accommodated as a result of the fundamental shift in guidance being proposed.

4. Risk Management

- 4.1 The District Council's Significant Business Risk Register identifies one area of concern that is pertinent to the content of this report: No. 1 – Political and Managerial Leadership. The key risk is set out below:

Risk Description	Likelihood	Seriousness of impact	Mitigation Measures
Failure to engage with communities and provide community leadership at a local level.	Significant	Critical	Respond to consultation

5. Consultations

- 5.1 The proposals contained within the Draft National Planning Policy Framework have been the subject of discussion in various officer groups across Suffolk, and in particular with colleagues at Mid Suffolk.

6. Equality and Diversity Impact

- 6.1 There are no equality and Diversity implications arising directly from the content of this report.
- 6.2 The Draft National Planning Policy Framework has been the subject of a separate impact assessment by the Department of Communities and Local Government.

7. Shared Service / Partnership Implications

- 7.1 The draft National Planning Policy Framework has implications for both Babergh and Mid Suffolk in relation to the preparation and adoption of Development Plan Documents and the Development Management decisions.

8. Key Information

- 8.1 On 25 July the Government launched its consultation on the draft National Planning Policy Framework (NPPF). The draft NPPF streamlines national planning policy into a consolidated set of priorities to consider when planning for and deciding on new development. It would effectively replace over 1,000 pages of national policy with a single document of some 50 pages. The document is available to view on-line by following the link given in the Appendix to this report. The consultation period closes on 17 October.
- 8.2 The principle of sustainable development permeates the draft NPPF and reaffirms that the actions we take to meet our needs today must not compromise the ability of future generations to meet their own. This is in line with the widely used definition first set out in the Brundtland Commission report *'Our Common Future'* in 1987. To do this, environmental considerations need to be properly weighed against the economic and social effects of decisions.
- 8.3 The draft NPPF translates this into the planning system as meaning:
- planning for prosperity (an economic role),
 - planning for people (a social role), and,
 - planning for places (an environmental role).

The following sections of this report outline some of the main provisions of the draft NPPF.

Plan Making

- 8.4 To meet the three main requirements simultaneously the NPPF states that local planning authorities should prepare strategic policies to deliver:
- housing and economic development requirements,
 - retail, leisure and other commercial development,
 - infrastructure for transport, minerals, waste, energy, telecoms, water supply and water quality,
 - health, security, community infrastructure and other local facilities, and,
 - climate change mitigation and adaptation, and protection and enhancement of the natural and historic environment.
- 8.5 Within this context, the NPPF urges local planning authorities to “plan positively for new development, and approve all individual proposals wherever possible”. This means:
- preparing local plans that meet objectively assessed development needs, while also having sufficient flexibility to “respond to rapid shifts in demand or other economic changes”;
 - approving, without delay, development proposals that accord with statutory plans, and,
 - granting permission where the plan is “absent, silent, indeterminate or where relevant policies are out of date”.
- 8.6 The only circumstances where these policies would not apply are if the adverse impacts of the proposed development would “significantly and demonstrably” outweigh the benefits. Consequently local planning authorities are advised that they should not put the viability of proposed development at risk by setting unrealistic planning obligations, such as for affordable housing or infrastructure contributions.
- 8.7 The draft NPPF says in relation to Local Plans that they should:
- plan positively for the development and infrastructure required in the area to meet the objectives, principles and policies of the NPPF,
 - address an appropriate time scale (preferably 15 years),
 - indicate broad locations for strategic development on a key diagram and land-use designations on a proposals map,
 - allocate sites to promote development and flexible use of land,
 - provide detail on form, scale, access and quantum of development where appropriate,
 - identify areas where it may be necessary to limit freedom to change the uses of buildings, and support such restrictions with a clear explanation,
 - identify land to be protected from development (for example, because of its environmental or historic value), and,
 - contain a strategy for how the local environment will be improved.

Infrastructure provision

- 8.8 The NPPF advises that the community infrastructure levy (CIL) should be used by local authorities to encourage and support new development. It states that a “meaningful proportion” of the money from the CIL should be allocated to neighbourhoods that will host the new development. To ensure that planned infrastructure is likely to be provided over a reasonable timescale local authorities will be required to prepare infrastructure policies at the same time as development policies. CIL charges will need to be tested as part of the development of the local plan.

Planning strategically across local boundaries

- 8.9 The Localism Bill places a duty on public bodies to co-operate on planning issues that cross administrative boundaries. The draft NPPF sets out a range of ways in which organisations should work across local boundaries to ensure that each local plan reflects how strategic priorities will be delivered and coordinated between different areas. Evidence of cross-boundary working might include:

- plans or policies prepared as part of a joint committee,
- a memorandum of understanding or a jointly prepared strategy which is presented as evidence of an agreed position, and,
- infrastructure plans that support current and projected future levels of development across local authority boundaries.

Examining local plans

- 8.10 Local plans will continue to be examined by an independent inspector to assess whether they are ‘sound’. A local plan will need to satisfy the following questions.

- Has it been prepared positively? The plan will need to meet objectively assessed development and infrastructure requirements.
- Is it justified? The process of preparing the plan should be based on an assessment of reasonable alternatives, using proportionate evidence.
- It is effective? The plan needs to demonstrate that it can be delivered in the timescale set out, and that it is based on effective joint working on cross-boundary strategic priorities.
- Is it consistent with national policy? The plan should deliver the NPPF’s “golden thread” of a presumption of sustainable development that runs through both the plan making and delivery processes.

Neighbourhood planning

- 8.11 The NPPF supports the implementation of neighbourhood planning - a new right being introduced in the Localism Bill. It would allow communities to create their vision of what their area should look like providing it is aligned with the strategic needs and priorities of the wider local area. A neighbourhood plan will need to be assessed by an independent examiner before being subject to a local referendum.

Commentary Box One

- The intention to produce a concise and accessible framework to replace existing guidance is generally welcome. There is however a real need to retain supporting guidance around significant issues, such as flooding and coastal change, in order to ensure that development takes place in an appropriate manner. The framework places significant emphasis on securing economic growth as a principal aim. While this is to be supported it must be balanced against social and environmental considerations.
- The relationship between the presumption in favour of sustainable development and the primacy of Local Plans requires clarification. As drafted the framework would require local planning authorities either to approve development or else prove that the proposed development would “significantly and demonstrably outweigh the benefits when considered against the policies in the framework as a whole” (paragraph 14). In the absence of a sufficiently up to date Local Plan there could be a rise in the number of planning appeals.
- The draft document states that where local authorities have out of date plans or where plans are silent on certain matters, planning applications should be determined in accordance with the framework, including the presumption in favour of sustainable development. It is therefore important that the definition of sustainable development properly reflects the issues that local authorities need to consider when deciding applications. The proposed removal of existing guidance would inevitably result in detailed policies and documents being produced by local authorities. While this may support the principle of localism, it is likely to result in the production of longer Local Plans and potential inconsistency for the development industry. This would run counter to the Government’s intention that Local Plans should be concise.
- Notwithstanding the potential limitations of the framework, the emphasis on a plan-led system is supported, as is the requirement for strategic priorities to be set by local authorities working in partnership. It is accepted that local authorities - and the communities they serve - are best placed to develop the vision and planning strategies needed for their areas.
- The flexibility for local authorities to decide how many documents are appropriate for their area is welcomed, however, the framework needs to give more freedom to authorities if detailed guidance on issues such as flooding is not to be retained. The statement that “Supplementary planning documents should only be necessary where their production can help bring forward sustainable development at an accelerated rate, and must not be used to add to the financial burdens on development” (paragraph 21) is very unhelpful. While the framework goes on to encourage the preparation of joint documents where appropriate, it would be beneficial if it included reference to the importance of ‘integrated spatial planning’ and a clear commitment to retaining this approach.

- While it is accepted that local authorities should not impose onerous requirements on developers that undermine the viability of new developments, the framework could potentially reduce the ability of local authorities to secure the necessary mitigation required to address the impact of development. The commentary currently provided within paragraphs 39 – 43 requires revision if local authorities are to retain sufficient powers to secure social and physical infrastructure in the future.
- The strengthening of the duty to cooperate through the Localism Bill is welcomed however the scope of the guidance in the framework could be widened to encourage greater engagement on strategic issues such as the provision of infrastructure, economic development, housing and the environment between local authorities and key partners. The framework should also encourage the co-operation of other bodies – such as infrastructure providers and utility companies.
- The provision for local communities to produce Neighbourhood Plans is encouraging. Further clarity is however required in relation to the scope of such plans and the intended mechanisms for producing them, particularly as, when a Neighbourhood Plan is approved, its policies will take precedence over existing policies in the Local Plan where they are in conflict. There is also some confusion in terms of conformity and precedence of plans. This might be overcome if there was a requirement on the local authorities to identify strategic policies with which neighbourhood plans should comply.

Questions for Members

- (i) What are your thoughts on the suggestion that decision makers at every level should assume that the default answer to development proposals is 'yes' except where it would compromise the key sustainable development principles set out in the framework?
- (ii) To what extent do you consider there is likely to be agreement on strategic issues with neighbouring authorities?
- (iii) How much interest do you consider there will be for local communities to produce neighbourhood plans and how do you consider they might be supported in financial and human resource terms?

Development Management

8.12 The draft NPPF sets out that the primary function of development management is to foster the delivery of sustainable development. In order to fulfil this role each local planning authority is advised that they should:

- Approach development management decisions positively - looking for solutions rather than problems so that applications can be approved wherever it is practical to do so,
- Attach significant weight to the benefits of economic and housing growth,
- Influence development proposals to achieve quality outcomes, and,
- Enable the delivery of sustainable development proposals.

- 8.13 The draft NPPF further advises that the relationship between development management and plan-making should be seamless and both should recognise the presumption in favour of sustainable development. It also seeks to encourage pre-application engagement, reaffirms that the planning system is plan-led, and reiterates current guidance on the use of planning conditions and obligations.

Commentary Box Two

- The framework acknowledges that early engagement in the planning application process can produce better quality outcomes. While it alludes to the need for developers to engage at an early stage with local people, and to take account of comments in preparing schemes, the advice is not sufficiently robust.
- It is generally accepted that early engagement can also assist with the resolution of technical issues prior to the submission of planning applications. The framework fails to recognise however the paradox that is likely to exist if existing detailed guidance is to be removed. This is likely to create additional uncertainty for the development industry.
- The framework does not adequately address the fact that local authorities are required to determine planning applications in accordance with the Development Plan unless material considerations indicate otherwise. In so doing the balancing exercise that is required by decision makers is understated.
- There is no mention of planning enforcement within the framework. While PPG18 is somewhat dated, an approach to unauthorised development by small businesses and self-employed people would be beneficial in the light of the need to aid economic recovery.

Question for Members

- (i) How satisfied are you that the suggested approach to Development Management is sufficient?
- (ii) What are your views on the potential absence of a national framework for planning enforcement?

Planning for prosperity

Sustainable growth

- 8.14 The NPPF makes clear that local planning authorities should be positive and proactive in encouraging economic sustainable growth which can be sustained and which addresses barriers to investment. They should set a clear economic vision and strategy for their area based on understanding of business needs across their areas.

Town Centres

- 8.15 The Government is fully committed to supporting town centres and protecting the local High Street. The NPPF makes clear that town centres should be recognised as being at the heart of communities. Local planning authorities are therefore advised that they should pursue policies that support the viability and vitality of town centres. The NPPF maintains the 'town centres first' policy approach which means that retail and leisure development should look for locations in town centres first, and only if suitable sites are not available look for edge of centre and then out of centre sites.

Sustainable transport

- 8.16 The Government is committed to cutting down pollution and congestion through the use of public transport. The NPPF makes it clear that local planning authorities should seek to ensure good access to high quality local public transport for new developments, with priority given to cyclists and pedestrians. It encourages decision-makers to provide charging points for electric cars and other low emission vehicles and points out that wherever possible, key facilities such as schools and shops should be within walking distance of most properties.

Communications infrastructure

- 8.17 The NPPF promotes growth for the telecoms industry, but reiterates that this growth should be sensitive to local areas. The policy supports the industry policy of sharing masts and using existing buildings, and well designed equipment.

Minerals

- 8.18 The NPPF reaffirms the Government's objective of securing an adequate and steady supply of indigenous minerals needed to support sustainable growth, whilst limiting any impact on the natural and local environment.

Commentary Box Three

- In principle the overall approach towards the promotion of economic development is supported. Further clarification is however required in relation to the potential protection of employment land and premises.
- While the draft framework purports to support the 'town centre first' approach, it is evident that the document is only concerned with retail and leisure developments. This appears to suggest that other uses, such as offices, can be located elsewhere and in potentially less accessible locations. Although this is unlikely to be a significant issue for Babergh, of more concern is the potential loss of planning policy support afforded to local shops and services by PPS4. The new framework does not appear to recognise the importance of local shops and services to the sustainability of rural communities.

- The framework recognises that patterns of development should facilitate the use of sustainable transport however the advice is so heavily qualified that it may not be possible to achieve. The wording of the framework appears to set a very high test for preventing development on transport grounds. As a consequence the local highway authority may be unable to require that development impacts are mitigated. This may lead to controversial applications being approved despite highway limitations.
- PPG13 currently makes significant reference to the ways in which transport policies can contribute towards sustainable development and improve the quality of places, through managing travel demand, parking strategies, traffic management, public transport, cycling and walking strategies. It also makes clear that these should be inter-related to local plan work. All of these elements are missing from the draft framework.

Question for Members

- (i) What are your observations on the approach to planning for future prosperity?
- (ii) Do you consider that the framework provides sufficient protection of rural services given the importance of them in safeguarding rural communities in Babergh?

Planning for people

Housing

- 8.19 The NPPF sets out the Government's key objective which is to significantly increase the delivery of new homes. Local planning authorities are therefore expected to be ambitious and the framework makes it clear that Local Plans should meet the full demand for market and affordable housing in their areas.
- 8.20 The NPPF maintains the expectation that local planning authorities should have a rolling five year supply of deliverable sites to meet their housing needs with at least a 20% additional allowance to create competition and choice in the land market. They should also bring back into use empty homes and buildings wherever possible. The NPPF also removes targets that previously specified the levels of housing development that should take place on previously developed land.

Design

- 8.21 The NPPF recognises that good design is an essential part of sustainable development. The planning system should therefore promote high quality design in all developments. Local Plans, including any neighbourhood plans, will be expected to set out the quality of development expected for an area, ensuring development that reflects the character and identity of local surrounding areas. Developers will also be expected to work closely with those directly affected by their proposals to evolve design proposals that take account of the views of the community.

Sustainable communities

- 8.22 The Government's objective is to create strong, vibrant and healthy communities by creating a good quality built environment with accessible local services. The NPPF considers the planning system can play an important role in facilitating social interaction and creating inclusive communities. It goes on to require that a positive and collaborative approach to the development of schools.

Green space designation

- 8.23 The NPPF sets out a new right for local communities to protect green areas of particular importance to them. It would enable communities to earmark for special protection green space land that is important to local life - whether its value is in its natural beauty, its historic characteristics, its recreational value, or its richness in wildlife. Such site will however need to be planned so as not to undermine investment in homes, jobs and other essential services.

Green Belt

- 8.24 The NPPF reaffirms the Government's commitment to maintaining Green Belt protections. All inappropriate development harmful to the Green Belt would remain prohibited. Local planning authorities are however encouraged to positively enhance the use of Green Belt, by opening up walking routes, and improving biodiversity.

Commentary Box Four

- The suggestion that local authorities should determine future levels of housing in their areas is supported. This provision does not however sit comfortably with the requirement for the housing supply to include an additional allowance of at least 20 per cent to ensure choice and competition in the market for land (and this should not include windfall sites unless there are exceptional local circumstances which require this). At present Babergh is able to meet this additional requirement, however should this position change there is a risk that the provisions of the framework coupled with the proposed presumption in favour of sustainable development could lead to increased challenges to local authorities. Local authorities should have the freedom to set their own allowances according to local market circumstances and the findings of local evidence.
- While the draft framework contains guidance on the provision of affordable housing, the approach to rural exception sites is no longer clear. Likewise the approach to development in the countryside is ambiguous.
- The framework does not currently address Gypsy and Traveller provision. This issue should be addressed if sustainable planning principles are to be achieved.
- The suggested approach to the consideration of design issues would represent a dilution of the advice currently provided in PPS1. While the requirement to refuse development of 'obviously poor design' is helpful it is likely to be very subjective in application.

- As currently drafted the framework would require each local authority to define a policy for the control over advertisements which appears to be unnecessary.

Question for Members

- (i) What are your observations on the approach to planning for people?
- (ii) Do you consider there is sufficient guidance and priority given to affordable housing, particularly in rural areas, which was previously covered by “rural exception site” policies?

Planning for places

Climate change

- 8.25 The NPPF highlights the role of planning in tackling climate change and making the transition to a low carbon economy. It points out that planning can help secure radical reductions in carbon emissions through the appropriate location and layout of new development, by supporting energy efficiency improvements to existing buildings, and backing the delivery of renewable and low carbon energy including community-led initiatives.
- 8.26 The NPPF stressed that new development should be future proofed against climate change through the correct location and design (for example making sure that new housing developments are not at risk of flooding).

Coastal change

- 8.27 The NPPF highlights the need for local planning authorities to identify Coastal Management Areas and to be clear as to what development might be appropriate in such areas.

Protected landscapes

- 8.28 The NPPF retains protection for National Parks, Areas of Outstanding Natural Beauty, Sites of Special Scientific Interest and other environmental designations which protect the character of the landscape, stop unsustainable urban sprawl, and preserve wildlife. In addition the NPPF retains a high level of protection for internationally designated sites, and those protected under the Habitats Directives, to the point where it states that development which is likely to have a significant effect on these sites, would not be sustainable.

Biodiversity

- 8.29 The NPPF underlines that the planning system should seek not just to protect, but, where possible, to enhance biodiversity. It advises that planning permission should be refused for development resulting in the loss or deterioration of irreplaceable habitats, including ancient woodland.

Noise and light pollution

- 8.30 The NPPF recognises that noise and light pollution impacts negatively on people's quality of life. It therefore makes clear that noise pollution as a result of new developments should be avoided and that by encouraging good design, planning decisions should limit the impact of light pollution.

Historic environment

- 8.31 The NPPF reaffirms protections for the historic environment and heritage. Development causing substantial harm or loss to an important heritage asset remains prohibited, unless in wholly exceptional circumstances. It advises that similar protections should be given to unofficial sites of archaeological interest if it can be demonstrated they are of substantial significance.
- 8.32 Local planning authorities are encouraged to set out how they will protect and improve heritage most at risk through neglect or decay, for the enjoyment for communities now and in the future. They should also have up to date evidence about the historic environment in their areas and use it to assess the significance of heritage assets and contribution they make to the environment.

Commentary Box Five

- The draft NPPF does not clarify the responsibilities under the Flood and Water Management Act or the need to ensure that Local Plans are compatible with local strategies for flood risk management. More specific mention is required to the need for all developments to give priority to the use of sustainable drainage systems and not only those developments proposed in areas of flood risk. While the document refers to the appropriate tests as currently set out in PPS25, the detailed guidance provided in Annex D would be lost as a result of the proposals. This would be a very retrograde step unless alternative guidance is to be issued.
- There is particular concern about the effect of the draft NPPF upon the protection of the natural environment. The principle that the countryside should be protected for its intrinsic character and beauty, the diversity of its landscape, heritage and wildlife, and the wealth of natural resources has not been carried over from PPS7. This principle should be clearly stated. Likewise the emphasis that is currently placed upon the development of brown field land in preference to green field sites would be lost. This issue needs to be addressed.
- As currently drafted the framework does not appear to give equal weight to the status of landscapes designated as AONB and National Parks. This is inconsistent with legislative provisions. As a consequence the document appears unbalanced. Notwithstanding the presumption in favour of sustainable development, it does not give sufficient weight to landscape impacts. There is an inherent risk that the NPPF this will lead to unnecessary damage to the character of the countryside.
- Although the high level of protection afforded to internationally significant sites, and those protected under the Habitats Directive, is supported, there is concern that this may undermine the importance of areas which lie outside those that are afforded statutory protection.

- The planning system currently addresses pollution control through PPS1, PPS23 and PPS24. If they are not replaced by a meaningful national framework it is likely that inconsistencies will arise between authorities leading to greater uncertainty for the development industry. There is also a risk that developments could proceed and subsequently be found to be causing a statutory nuisance under the provisions of the Environmental Protection Act 1990. At present the draft framework discourages the production of local supplementary documents.
- In relation to land contamination the draft NPPF expects that there will be a presumption in favour of development. This approach is already in place within the land contamination sector as developments are only recommended for refusal if a practicable means of remediation to a satisfactory safe level for the intended use is not achievable or if insufficient information is submitted to adequately assess land contamination risks. Nevertheless there will still be a requirement for authorities to produce local policies which may lead to some inconsistency.
- Currently planning for waste is not covered in the framework. Waste management facilities should be integrated with other forms of development if the principles of sustainable development are to be achieved.
- Advice on the protection of the historic environment is currently contained within PPS5. This is a relatively recent document and provides guidance on the consideration of all heritage assets. As drafted the NPPF no longer makes it clear that there should be a presumption in favour of conserving heritage assets as set out in the relevant legislation. As a consequence a clear and unequivocal statement is required clarifying the importance that is to be attached to the protection of historic environment. The document currently fails to acknowledge the contribution that the protection of the historic environment can make to the economy and social well being. It is essential that a Historic Environment Planning Practice Guide is retained in order to provide appropriate interpretation.

Question for Members

- (i) Are you satisfied that sufficient safeguards will remain in place to address such matters as flooding, the protection of the natural environment, pollution control and the historic environment?

9. Conclusions

- 9.1 There are many positive elements to the Draft National Planning Policy Framework, in particular the aspiration to significantly shorten and simplify the amount of guidance. The desire to support and facilitate sustainable economic growth is fully acknowledged however there is little to suggest that the proposed revisions will provide a national long term vision or outline the role that planning can play.

9.2 The bias towards economic development appears to be at the expense of local communities and the wider environment. In addition strategic planning issues which could support economic growth are not adequately addressed and the removal of the detailed guidance that currently exists is likely to result in greater uncertainty for the development industry. The unintended consequence could be to thwart rather than encourage development.

10. Appendices

Title	Location
(a) Draft National Planning Policy Framework	http://www.communities.gov.uk/publications/planningandbuilding/draftframework

11. Background Documents

None

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