

BRECKLAND DISTRICT COUNCIL

Report of the Executive Member for Assets and Strategic Development

To: Planning Committee – 11th February 2013

Author: Sarah Robertson, Planning Policy Officer (Capita Symonds)

Subject: Breckland Planning Policies Conformity to the NPPF

Purpose:

To advise members of the level of conformity of Breckland's planning policies following the publication of the NPPF.

Recommendation(s):

It is recommended that Members note the contents of this report, and have regard to its contents in determining planning applications.

1. BACKGROUND

- 1.1 Members will be aware that the National Planning Policy Framework (NPPF) was published on 27th March 2012, replacing all existing Planning Policy Statements (PPSs) and Guidance Notes (PPGs). At the time of publication, the NPPF became a significant material consideration in the determination of planning applications and the preparation of Development Plan Documents (DPDs). For the first year following publication, the NPPF contained transitional arrangements for existing LDDs already in place. This report advises members of the weight that can be afforded to adopted DPDs following the end of the transitional arrangements.
- 1.2 Annex 1 of the NPPF contains details of the implementation procedure for policies contained within the Local Development Framework. For 12 months following the publication of the NPPF full weight could be given to all local planning policies which had been adopted since 2004 (in accordance with the requirements of the Planning and Compulsory Purchase Act 2004) even if there was a limited degree of conflict with the framework. At the end of this 12 month period (27th March 2013) the NPPF requires that due weight should be given to relevant policies in existing plans according to their degree of consistency with the NPPF. The closer the conformity of policies in the plan to the policies in the NPPF, the greater the weight that may be given.
- 1.3 Breckland Council's adopted Local Planning Policies are contained within the Core Strategy and Development Control Policies DPD, the Site Specific Policies and Proposals DPD and the Thetford Area Action Plan DPD. Each of these documents was adopted in accordance with the regulations set out within Planning and Compulsory Purchase Act 2004, and as such have had full weight since the publication of the NPPF.
- 1.4 The NPPF signals the Government initiative to move away from separate Local Development Documents back to a single Local Plan. The NPPF states that Local Plans should be aspirational but realistic, addressing the spatial implications of economic, social and environmental change. This is similar in a number of ways to the requirements for plan preparation prior to the NPPF. Furthermore, the Local Plan approach seeks to reduce the number of additional Development Plan Documents unless they can be clearly justified. The Council's Cabinet has recently considered a report setting out the intention to produce a single Local Plan in the District. However, members are reminded that the existing suite of DPDs remain extant until replaced by a new Local Plan.

- 1.5 The remainder of this report considers each of the Development Plan Documents which have been adopted by the Council and their conformity with the policies contained within the NPPF. This report also considers any gaps within the adopted local planning policies since the revocation of the previous national planning policy. Detailed individual policy assessments are contained within appendices A and B.

Core Strategy and Development Control Policies Development Plan Document

- 1.6 The Core Strategy and Development Control Policies Development Plan Document was adopted in December 2009, having been informed by National Policy contained within Planning Policy Statements and Guidance Notes. Appendix A of this report contains the more detailed individual policy assessments including consideration of the overall level of conformity with the NPPF. The assessment concludes that a number of the policies are fully in conformity with the NPPF and as such full weight in the decision making process can be given to them through the Development Management process. Particular policies of relevance to this committee which retain full weight include the Spatial Strategy (SS1) which sets out the settlement hierarchy within Breckland, whilst the principles for new housing, affordable housing and replacement dwellings also remain up to date. Other conforming policies also include those on employment land, town centres and the retention of key services and facilities.
- 1.7 However, there are a number of policies which are only partly conforming to the NPPF. In the majority of policies this reflects that the principal requirements of the policy are in accordance with the NPPF, however in certain instances there may be a conflict in the wording of the policy in varying degrees to the NPPF. Policies of particular note which are only partly conforming include Policy CP1 Housing, Policies DC5 Affordable Housing on Exception Sites and Policy DC21 Farm Diversification. Policy CP1 Housing is partly conforming, as it predominantly sets out the number of dwellings, whilst the strategic settlement hierarchy has already been set out within the Spatial Strategy. However, the NPPF states that where a District cannot demonstrate a five year supply of deliverable housing land (as is the case for Breckland) the relevant policies for the supply housing cannot be considered to be up to date. Therefore, at the present time, Policy CP1 is only in partial conformity.
- 1.8 In relation to affordable housing exception sites, the NPPF now allows for some market housing to be included if it will facilitate the provision of significant additional affordable housing. The Core Strategy policy specifically states that all dwellings should be affordable and remain so in perpetuity. The policy should therefore be considered to be not up to date in respect of tenure mix on exception sites; however the remainder of the policy does remain up to date.
- 1.9 Policy DC21 Farm Diversification supports the general principle of farm diversification in accordance with the requirements of the NPPF. However some of the criteria contained within the policy could be considered to be too stringent in relation to the requirements of the NPPF. Other policies within the Core Strategy and Development Control Policies DPD are also considered to be only partly conforming for similar reasons.
- 1.10 The NPPF now requires all Development Plan Documents to include a policy on the presumption in favour of sustainable development. In cases where there are no relevant policies to the application or the relevant policies are out of date at the time of making the decision the policy states that there should be a presumption in favour of sustainable development.

Site Specific Policies and Proposals Development Plan Document

- 1.11 The Site Specific Policies and Proposals DPD was adopted in January 2012 following its public examination in July 2011. The Site Specifics DPD seeks to allocate land for new residential and employment development across the District. The allocations have been developed in accordance with the figures set out within the Spatial Strategy of the Core Strategy and Development Control Policies DPD. As already stated, the Spatial Strategy is considered to be in broad conformity with the requirements of the NPPF.

- 1.12 The NPPF states that Local Plans should allocate sites to promote development and the flexible use of land, whilst also providing detail on the form, scale, access and quantum of development where appropriate. The policies within the Site Specifics DPD include information on the scale, density and access arrangements for the sites, which would be in accordance with paragraph 157 of the NPPF. Individual policy assessments are included within Appendix B of this report. However, the assessment concludes that each of the policies can be considered to be in conformity with the NPPF.
- 1.13 Whilst not an issue of conformity, similarly to the Core Strategy, the Site Specifics DPD does not include a policy relating to the presumption in favour of sustainable development that is now required.

Thetford Area Action Plan Development Plan Document

- 1.14 The Thetford Area Action Plan (TAAP) was adopted in July 2012 after the publication of the NPPF; however the examination of the document occurred whilst the draft NPPF was being consulted on but prior to the publication of the NPPF. The TAAP Inspectors Report was also received following the publication of the NPPF, due to this the Inspector considered the conformity of the area action plan against the NPPF. As such an assessment of each of the individual policies contained within the TAAP is not included here as it has already been determined by the Inspector to be in conformity. The assessment focuses instead on any potential gaps within the TAAP, which could affect development within Thetford. Prior to adoption of the DPD, Breckland was required to include a policy on the Presumption in Favour of Sustainable Development, which is now required to be included within all DPD's.

Policy Gaps Created by the Deletion of PPGs/PPSs

- 1.15 Whilst the NPPF retains the primacy of the Development Plan at the heart of decision making, it does represent a significant streamlining in national planning policy. The majority of Breckland's adopted local policies were adopted having been informed by the varying Planning Policy Statements and Guidance Notes (PPGs). Due to the requirements not to repeat national planning policy within local planning policies, the removal of the PPS's and PPG's has resulted in some gaps within Breckland's adopted planning framework. Additionally the PPS's and PPG's provided a significant depth of technical advice and guidance for the assessment of planning applications. The majority of this technical advice has now been revoked and that which remains is proposed to be streamlined under the Taylor Review.
- 1.16 A key policy gap relates to the assessment of need for agricultural workers dwellings. The detailed assessment criteria were previously contained within Annex A of Planning Policy Statement 7: Sustainable Development in Rural Areas. These criteria included the requirement for both financial and functional tests. Furthermore if a dwelling was deemed to be essential to support a new farming activity, for the first three years this should be provided as a temporary dwelling, with a permission for a permanent dwelling being sought subsequently. The NPPF aims to restrict isolated new homes in the countryside unless there are special circumstances, which can include the essential need for a rural worker. The NPPF does not however include details of what constitutes either an essential need or a rural worker. Without the definitions of these terms the assessment of planning applications is open to ambiguity, and as such represents a policy gap within the framework.
- 1.17 There are also some policy gaps specific technical areas such as that related to noise. Planning Policy Guidance Note 24 included both policy and technical advice; however with the publication of the NPPF this was replaced. The NPPF does retain the requirements for planning policies and decision to aim to avoid noise from giving rise to significant adverse impacts at paragraph 123. Furthermore other forms of guidance do still exist, including British Standards. However, there is the potential for a lack of clarity as to the assessment of noise impact from new developments.

- 1.18 Planning Policy Guidance Note 14 referred to development on unstable land and included a number of requirements for both a developer and the Local Planning Authority. PPG14 noted that it was the responsibility of the developer to determine whether land is suitable for development from a stability perspective. However the LPA would need to take this into consideration in determining applications. This guidance is no longer included within the NPPF. Instead the NPPF states at paragraph 121 that planning policies and decisions should ensure that the site is suitable taking into account land stability. However, the cancellation of PPG14 has limited the technical guidance available and left a policy gap.

Approach Going Forward

- 1.19 As noted previously, the planning policies contained within the adopted Development Plan Documents remain extant until a point when they are superseded by a Local Plan. Both appendices A and B to this report show that the majority of planning policies within the adopted DPDs are in overall conformity with the NPPF, and therefore weight can be attributed to them for decision making.

2. OPTIONS

This report is for Members information and as such, no alternative options are presented in this instance.

3. REASONS FOR RECOMMENDATION

4. EXPECTED BENEFITS

5. IMPLICATIONS

- 5.1 **Legal** – The only legal implications are indirect and relate to the grant of planning permission rather than specifically to this report.

5.2 Risks

- 5.2.1 There are no identified risks as a result of the contents of this report.

5.3 Financial

- 5.3.1 There are no financial implications as a result of this report.

5.4 Timescales

5.5 Equality and Diversity

- 5.5.1 There are no equality and diversity implications as a result of this report.

5.6 Stakeholders / Consultation

5.7 Contracts

5.8 Section 17, Crime & Disorder Act 1998

- 5.8.1 There are no crime and disorder implications arising from this report.

5.9 Other

6. WARDS/COMMUNITIES AFFECTED

All wards and communities in Breckland are affected by the LDF

Background papers:- None

Lead Contact Officer

Name/Post: Sarah Robertson, Planning Policy Officer (Capita Symonds)

Telephone Number: 01362 656 857

Email: sarah.robertson@capita.co.uk

Director/Officer who will be attending the Meeting

Name/Post: Sarah Robertson, Planning Policy Officer (Capita Symonds)

Phil Mileham, Planning Policy Team Leader (Capita Symonds)

Appendices attached to this report:

Appendix A: Conformity of the Core Strategy and Development Control Policies DPD to the National Planning Policy Framework

Appendix B: Conformity of the Site Specifics Policy and Proposals DPD to the National Planning Policy Framework