

REPORT FROM: PLANNING, BUILDING CONTROL AND LICENSING SERVICES MANAGER

TO: EXECUTIVE

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TO CONSIDER AND RESPOND TO THE CONSULTATIONS ON PLANNING REFORM

PURPOSE OF REPORT

To inform the Executive of the Proposed Planning Reforms and to agree the Council's responses

RECOMMENDATIONS

- (1) That the Executive considers the draft response to the National Planning Policy Framework as set out in Appendix A and agrees the substance of the final response the final content of which is delegated to the Planning, Building Control & Licensing Services Manager to issue.
- (2) That the Responses to the consultations on Draft Planning Practice Guidance for Viability, Housing Delivery Test Draft Measurement Rule Book and Supporting Housing Delivery Through Developer Contributions be delegated to the Planning, Building Control & Licensing Services Manager to respond to based on the comments made in this report.

REASONS FOR RECOMMENDATIONS

- (1 & 2) In order to ensure that Pendle contributes to the development of local and national policy on planning issues

ISSUE

- 1 National Planning Policy substantially altered in 2012 with the publication of the National Planning Policy Framework. The shortened policy replaced a significant amount of previous detailed guidance. The Framework has been tested in Local Plan Inquiries, planning application appeals and through the courts. There have been elements of it that are ambiguous and other parts which clearly needed to be rethought as for example the exceptions which mitigate against consideration of an application set against the Framework as a whole. Fundamental issues such as why the three strands of what constitutes sustainable development (social, environmental and economic objectives) were

not paragraphs that were to be considered in looking at whether something was sustainable development have been addressed.

- 2 At the same time as the need to re-look at how the documents work the country has been struggling to achieve house building targets and has emerged from a deep seated economic recession. Delivery of housing and infrastructure has been challenging in this economic climate particularly in areas with viability problems such as Pendle. The Government have a clear wish to see house building rates increase and has published consultation documents, such as the Housing White Paper, that looked at how that could be achieved. The revision to the NPPF is the attempt to marry the aspirations to build more houses with the ability of the planning system to help foster that delivery.
- 3 Four consultation documents have been issued which seek to reform parts of the planning process with a view to, in the main, increasing house building rates. There is a single document which asks for responses on all four consultations and the suggested response follows that format as attached at Appendix A. These documents are:
 - Draft Planning Practice Guidance for Viability
 - Housing Delivery Test Draft Measurement Rule Book
 - National Planning Policy Framework – Draft Text for Consultation
 - Supporting Housing Delivery Through Developer Contributions
- 4 The full suggested responses are contained in the Appendix to this main report. Some general comments on each document are included as a précis under individual headings below.
- 5 What is however clear is that the guidance is unsubtle and takes no account of regional variations in the reasons behind different performance in house building. Pendle made the comment in our response to the Housing White Paper that a one size fits all approach only benefits those whose “size” the policy fits. The Housing White Paper recognised that the housing market is different in different parts of the country (page 17) but the approach taken in the reforms takes no account of this and it is disappointing that the different issues faced in different areas is not recognised in the revisions.
- 6 It is also disappointing that despite there being a clear recognition that the development industry (Housing White Paper/Speech by the PM in launching the draft NPPF) that it does not deal in any meaningful way with the development industry’s role in this issue. For example it misses the opportunity to put policy in place to dissuade developers from land banking, an issue recognised nationally as a contributory factor to sites not developing in a timely manner and hence low housing delivery numbers.
- 7 The new policies will also require a change in the evidence base which will have cost implications for all Councils. This is not recognised anywhere in any of the consultation documents.

Housing Delivery Test

- 8 The proposal is to set an annual delivery test to look at delivery against the objectively assessed housing target. This in itself is not the issue. The main issue is how Councils that do not meet thresholds are treated in terms of their planning policies. This is considered in more detailed in the draft Framework later in the report.

- 9 The mathematical formulae is in itself straightforward. It works out a percentage of housing delivered in a three year period set against the total number of homes required.
- 10 However, the calculation differs from that relating to housing need for the purposes of the five year supply calculation as it does not take into account backlog. This is to be welcomed as it would not inflate our three yearly figure but unless it is explicitly clarified it will no doubt lead to instant challenges from developers.

Draft Planning Practice Guidance for Viability

- 11 Considering whether to impose requirements on developers such as the requirement for affordable houses or infrastructure involves an understanding of how the viability of the development works. The consultation emphasises that this should be carried out primarily at the Plan Making Stage, which is the correct approach in our view. The requirements should be linked to the infrastructure and other requirements so that developers only contribute to what is required to make the development acceptable.
- 12 The consultation suggests that viability assessments should be made public. We already do that and have been examined on the document.
- 13 The majority of the guidance looks at a method of assessment that we followed in producing our viability assessment. Gross development value is established and the implications of policy requirements are assessed. What I disagree with is that the policy implications should be added in to costs from the outset. This is for two reasons.
- 14 Firstly is that it takes time and effort to develop policies. If all policy requirements are added in then a good deal of work will have been undertaken reaching a position that then proves to be unworkable.
- 15 Second is that policy development is often a trade-off between competing ends for limited resources. It would be preferable to work out basic viability without any policy requirements and then establish what can be accommodated through developer contributions.

National Planning Policy Framework – Draft Text for Consultation

- 16 The NPPF has been restructured with a significant emphasis on housing development and allowing development both within and outside of settlements. It is clearly housing led with a pro-growth message on housing.
- 17 The emphasis is still on Plan making leading the way development is planned for. A new element is the concept of Strategic Plans. Strategic Plans would be akin to Core Strategies and would set out the overall vision for development in an area and would set out the level of development needed. Strategic Plans could be in the form of Local Plans (“LPs”). LPs could also include no-strategic policies ie development management policies, but there would have to be clear differentiation within the LP of which policies are strategic and which were not.
- 18 As detailed in 5 above the draft Framework is a one size fits all approach. It is also supported by ongoing research such as the current look at why build out rates are low being overseen by Oliver Letwin MP. This is focussing on high demand areas. Build out rates are low in low demand areas and we should ask for that research to be extended to areas such as Pendle.

- 19** The way viability is dealt with is shifting in emphasis. Currently the NPPF (para 173) allows for developers to submit viability assessments which, where there are requirements for contributions, can seek to reduce their contribution requirements. The proposed NPPF seeks to frontload viability assessments and make them much more robust in the Plan making process. The aim is to bring certainty to developers as to what they would have to provide as part of the Local Plan. Developers would not then be able to submit viability appraisals with the aim of reducing their contributions. Pendle has committed in the Part 1 Plan (Core Strategy) to re-looking at viability particularly around the issue of affordable housing and we would be bound to do that using the yet unpublished standard assessment methodology.
- 20** There will be a large focus on viability issues in Pendle based on housing delivery and affordable housing provision. The types of affordable housing that can be delivered has altered and includes products such as discounted open market sales. This will affect the viability of schemes and this will require re-assessing in light of those extra forms of affordable housing. The table below sets out the current and proposed definitions of affordable housing. We will be required to re-look at the outputs from our Strategic Housing Market Assessment to consider what types of affordable housing are appropriate.

Current NPPF Definition of Affordable Housing	Proposed Definition
Social Rent	Starter homes (definition to reflect status at the time of Plan preparation)
Affordable rent	Affordable housing for rent (changes in criteria such as can be private providers who build for rent)
Intermediate housing	Discounted market sales housing (must be 20% below full market value)
	Other affordable routes to home ownership (shared ownership, equity loans, low cost homes for sale)

Supporting Housing Delivery Through Developer Contributions

- 21** The delivery of infrastructure assisted by developer contributions can go forward either through the Community Infrastructure Levy (“CIL”) or by contributions through section 106 agreements. The thrust of Governments has been to collect contributions mainly through CIL. However it is clear that CIL does not work effectively and that section 106 contributions are still the main form of providing contributions. Of the £6 billion funding collected last year £5.1 was via section 106 contributions.
- 22** For Pendle and other areas where basic viability is a major issue the level of contributions we can secure without making schemes unviable is extremely limited. The changes proposed will therefore be of little impact on us in the short term.
- 23** The proposal is to more closely align the Plan making process with generating a CIL infrastructure schedule. This will include providing costs for providing infrastructure at the Plan making stage, whether or not a Local Authority will introduce CIL. There will therefore be a need to produce more detailed evidence to support Local Plans.
- 24** Paragraph 41 suggests that Government could set the level of contributions for affordable housing and infrastructure contributions nationally. This illustrates the one size fits all

thinking of the policy approach to housing delivery which takes no account for regional or local variations in the housing market. Being blunt such a move would sterilise much of our housing market and we should object to this in the strongest terms.

- 25** Pooling restrictions currently exist for section 106 contributions are to be relaxed in certain circumstances. This includes AREAS WHERE Authorities fall under the tenth percentile of average new build house prices which Pendle is.

IMPLICATIONS

Policy:	The policy implications are as set out in the report.
Financial:	The table set out at paragraph 1 of Annex A sets out the likely additional evidence that will be required to meet the needs of the draft revision to the NPPF. There will be as of yet unquantified costs associated with the additional evidence base requirements.
Legal:	None
Risk Management:	None
Health and Safety:	None
Sustainability:	None
Community Safety:	None
Equality and Diversity:	None

Background Papers

Link to all consultation documents:

<https://www.gov.uk/government/consultations/draft-revised-national-planning-policy-framework>