



**REPORT OF: THE DEPUTY CHIEF EXECUTIVE
ON BEHALF OF THE DIRECTOR OF
GROWTH & DEVELOPMENT
TO: PLANNING AND HIGHWAYS COMMITTEE**

ON: 20th SEPTEMBER 2018

**ORIGINATING SECTION: PLANNING (DEVELOPMENT
MANAGEMENT SERVICE)**

WARDS AFFECTED: ALL

COUNCILLORS: ALL

TITLE OF REPORT:

**Implementation of the Revised National Planning Policy Framework (2018) and
Other Relevant Updated/New National Planning Guidance**

1. PURPOSE OF THE REPORT

- 1.1 To inform Members of implementation of the revised National Planning Policy Framework (NPPF) in July 2018, and other National Planning Guidance and what this means in terms of the changes to the planning system in particular what Blackburn With Darwen Borough Council (BwD) considers to be important matters for the borough.

2. BACKGROUND

- 2.1 The NPPF sets out the Government's planning policies for England, and how these are expected to be applied. It provides a framework to enable Local Planning Authorities (LPAs) to produce their own local and neighbourhood plans, which reflect the needs and priorities of their communities. The NPPF was initially adopted in March 2012. Policies within the NPPF were updated due to legal challenges, appeal decisions, the issuing of ministerial statements, and revisions to the Planning Practice Guidance. The new NPPF therefore collates all these changes in addition to the latest planning policy being forward by the Ministry of Housing, Communities and Local Government (MHCLG).
- 2.2 The revised NPPF was published by the (MHCLG) on the 24th July 2018, consolidating previous changes together with including new and updated policy. This emanated from the 2017 Housing White Paper, and the "Planning for the right homes in the right places" consultation in 2017. The revised NPPF was initially released in draft form during a consultation period between the 5th March 2018 and 10th May 2018. At the same time, the Government also published

Planning Practice Guidance, the Housing Delivery Test (draft measurement rule book), and Supporting Housing Delivery through Developer Contributions.

- 2.3 As the revised NPPF was published, the Secretary of State Rt Hon James Brokenshire on the 24th July said, “*Building attractive and better-designed homes in areas where they are needed is at the centre of new planning rules.*” In response to this challenge the new Framework proposes several key changes, which are predominately focussed on plan-making, housing supply and development density.
- 2.4 The guidance set out in the revised NPPF came into effect immediately, which means local planning authorities must take it into account in their review or production of new local plans, and in decision making. This report provides Members with a concise summary of the main issues and proposed changes set out in the new NPPF and other guidance.

3. RATIONALE

3.1 The NPPF and Planning Practice Guidance

The structure of the 2018 NPPF differs markedly from the 2012 edition, bringing forward the chapters on plan-making and decision making, and on housing. A new chapter has also been added on “making efficient use of land”. The new version is considered to adopt a more logical approach, and includes elements from the Planning Practice Guidance and relevant case law. Reference is now made to policies maps rather than proposals maps (with key diagrams for broad locations of development). In addition, the emphasis on up-to-date plans is also included, together with the emphasis on joint-working, and the increased reference to the role of statutory and non-statutory consultees. The revised NPPF places significant emphasis on design, with high quality buildings and places seen as fundamental to the planning process. In particular, the guidance places great emphasis on high quality design for new homes. The NPPF’s focus remains firmly on housing.

3.2 The presumption in favour of sustainable development

The Government in the new NPPF has now attempted to be clear how this principle is applied and when, which arises from the many legal cases that have debated its application for decision taking since the publication of the 2012 version. Footnotes have now been included to help explain what is meant, and in paragraph 11, a footnote has been inserted which confirms that for decision taking, where policies most important for determining applications are out-of-date, permission should be granted unless the site is protected from development or where the adverse impacts would significantly and demonstrably outweigh the benefits. The footnote now emphasises that the presumption will now include for housing schemes, situations where there is no 5 year supply or where the Housing Delivery Test (HDT) has not been met (refer to paragraph 3.8 below).

3.3 **Objective Assessment of Need and Five Year Supply**

As was anticipated following the enactment of the 2016 Housing and Planning Act, the main thrust of the new NPPF is on housing delivery. Section 5 of the NPPF focuses on the delivery of a sufficient supply of homes. The section introduces the standard method for determining housing need which was initially flagged in the Housing White Paper in March 2017, with a subsequent publication of an initial set of housing numbers for each local authority in England in September 2017. The attendant detail for how the methodology has calculated the housing numbers is contained in updated Planning Practice Guidance .

3.4 However, the guidance is light on detail and this is acknowledged by the Government in their statement that the, “...*new guidance does not constitute the full guidance for this section - further content will be added in due course.*” No date has been given for when additional detailed information will be published but it is dependent on the publication of updated household forecasts that are expected in September 2018.

3.5 Paragraph 67 still requires local planning authorities to set policies that identify a supply of specific, deliverable sites for a 5 year period. However, the assessment of this has now changed with the definition in the glossary of what constitutes “deliverable development” now being updated. The definition now specifically adds the following:

“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.”

3.6 This change is clear from the 2012 version of the NPPF, in that sites should now only be included if there is certainty rather than being capable of being completed. Whilst there is no definition of what “clear evidence” is required, it is likely that local authorities will need to obtain more detailed information from developers and landowners setting out their intentions to develop individual sites.

3.7 BwD published its latest five year land supply report in July 2018. This set out that there is a 4.4 year supply of deliverable housing land in the Borough for the period from 1 April 2018 to 31 March 2023. The Table below is an extract from the five year land supply report which shows the rate of housing delivery since the commencement of the current local plan.

TABLE 1: Housing supply in relation to Core Strategy targets

Plan period (01 April – 31 March)	Cumulative requirement	Net completions and conversions pa	Reoccupied long term empties	Completions pa	Cumulative completions	Cumulative supply against target/requirement
2011/2012	530	19	-	19	19	-511
2012/2013	1060	191	-	191	210	-850
2013/2014	1590	225	152	377	587	-1003
2014/2015	2120	213	207	420	1007	-1113
2015/2016	2650	99	110	209	1216	-1434
2016/2017	3275	130	167	297	1513	- 1762
2017/2018	3900	279	148	427	1940	- 1960
TOTAL		1156	784			

3.8 Housing Delivery Test

The Housing Delivery Test (HDT) is a new mechanism introduced by the Government to assess housing completions within each area and to enable further action to be taken if sufficient housing is not being delivered. This will be introduced for local authorities in November, and will measure the number of homes created against local housing need and penalise Councils that under-deliver against various thresholds over a three year period. It will be based on either the housing target in a Local Plan, or the minimum annual local housing need figure as set out by Government, and whichever is the lower figure being used. In the case of BwD this will be the minimum annual local housing need figure from Government.

3.9 It is important to note the different approaches between the figures used for the five year land supply and HDT calculations. BwD, in common with a number of other authorities across the country, includes reoccupied long term empty properties within the count of additional dwellings. This approach was accepted by the Planning Inspector who conducted the examination of the Site Allocations and Development Management Policies Plan (Local Plan Part 2).¹ The five year land supply calculation is based on considering delivery against the adopted local plan targets, whilst the HDT will use the minimum annual local housing need figure produced by Government. Work is in hand to consider a new local plan housing requirement. It is expected that a consultation on the issues and options stage of the new local plan will take place in early 2019, including consideration of a range of options for a new housing requirement.

3.10 Paragraph 75 of the NPPF states:

“Where the Housing Delivery Test indicates that delivery has fallen below 95% of the local planning authority’s housing requirement over the previous three years, the authority should prepare an action plan in line with national planning

¹ Inspector’s Report (<http://www.blackburn.gov.uk/New%20local%20plan%202/Inspectors-Final-Report.pdf>)

guidance, to assess the causes of under-delivery and identify actions to increase delivery in future years.”

Further details on the HDT are contained in accompanying technical guidance ² that sets out how housing delivery will be measured when the HDT commences in November 2018. A calculation for BwD is set out below that is based on the HDT Measurement Rule Book methodology.

Requirement (based on HDT approach using 2012 and 2014 Household Projections 10 year averages)	
2015/16	282
2016/17	283
2017/18	152
TOTAL	717

Completions (ONS Figures from Live Table 122 for 2015/16 and 2016/17; BwD figure for 2017/18)	
2015/16	95
2016/17	139
2017/18	279
TOTAL	513

Housing Delivery Test (%) = Total net homes delivered over three year period/
Total number of homes required over three year period

For BwD therefore:

HDT = 513/717

= **71.6%**

Note: This calculation is subject to potential amendment when the official figures are published in November 2018.

The presumption penalty would apply from November to local authorities delivering below 25% of housing need in the three years to March 2018. Authorities will have to show that they have delivered at least 45% of housing need in the three years to March 2019, and 75% in the three years to March 2020, to avoid the presumption penalty in November 2019 and November 2020 respectively. From the calculation above, it can be seen that BwD are meeting the threshold set from November 2018.

Paragraph 75 of the NPPF makes reference to where LPAs delivery has fallen below 95% of the local planning authority’s housing requirement over the previous three years, they will be expected to produce an action plan that sets out how delivery rates will be improved. . In essence BwD can argue that an action plan is being produced with the growth pipeline work and tracker that is reported to the Growth Board.

² The Housing Delivery Test Measurement Rule Book

3.11 Additional aspects to note in section 5 include:

- Confirmation that **affordable housing** contributions cannot be sought from development of ten or fewer dwellings reiterating the previous Ministerial Statement that set out this expectation.
- A minimum 10% affordable housing contribution on sites of 11 or more dwellings with certain exemptions identified (schemes that will deliver solely for build to rent or self-build, specialist accommodation typically for elderly persons or students, and entry-level and rural exception sites).
- Promotion of **small and medium sized sites** whereby local authorities are expected to "...identify, through the development plan and brownfield registers, land to accommodate at least 10% of their housing requirement on sites no larger than one hectare; unless it can be shown, through the preparation of relevant plan policies, that there are strong reasons why this 10% target cannot be achieved."
- An option to produce **an annual position statement on five year land supply** that would be then be submitted and considered by the Secretary of State (in all likelihood it would be subjected to some form of examination by the Planning Inspectorate).
- There are also some changes to **rural housing policy**. Paragraph 79 now replaces Paragraph 55 in the previous NPPF relating to proposals where the design is of exceptional quality i.e. truly outstanding, innovative etc. However, the paragraph also introduces a new element of allowing new housing in the countryside in that it involves the sub-division of an existing residential property. Whilst this does not involve further new building in the countryside, it does expand residential uses in rural areas which are not necessarily sustainable in terms of growth. However, there are instances in the borough where there are significantly large residences which could benefit from sub-division.

3.12 **Plan Making (paras 15-37)**

The updated NPPF confirms that local plans should be reviewed at least once every five years with the first review taking place no later than five years from adoption. It goes further by reinforcing the position that relevant strategic plan policies will require updating once every five years if the local housing need figure has changes significantly or earlier review if housing need is expected to change significantly in the near future (paragraph 33).

- 3.13 This follows the position set out in the 2017 Housing White Paper, which formalised the Government's expectation that Local Plans should be reviewed at least every five years. BwD's Core Strategy was adopted in January 2011, so is over seven years old. As such, justification was approved earlier this year to start the Local Plan review. A review is critical to maintaining a pipeline of development sites, for both housing and commercial schemes. Existing development sites are progressing at pace, and there is a particular shortage of allocated employment land. For example, there is an urgent need for the consideration of the early release of the sites which are currently allocated for development beyond 2026, such as the North East Blackburn housing site, the allocation of the former Pleasington Lakes site for housing and the creation of a

strategic employment site at Guide to the south of the M65 between junctions 4 and 5. An updated Local Plan is essential to allow these sites to be released for development.

- 3.14 The Borough's housing and employment requirement figures were set by the Core Strategy, which is over 5 years old, and therefore in need of urgent review. Some of the evidence work for the Core Strategy dates back to the mid-2000s. The review will allow us to engage with landowners in areas where development has not previously been envisaged, and help us to lever in landowner / promoter resources to develop a site evidence base. An updated strategy for addressing and justifying further Green Belt release will also be fundamental to the maintenance of our development pipeline.
- 3.15 The updated NPPF has a number of changes that apply to planning policy and the production of Local Plans. Section 3 of the NPPF is concerned with plan-making.
- Plans should at a minimum include strategic policies that, *"...address each local planning authority's priorities for the development and use of land in its area."* Beyond this specific remit, plans can include non-strategic policies to deal with any locally specific issues that need to be addressed.
 - An additional aspect to the existing duty to cooperate is introduced in the form of a statement of common ground. This requires that local authorities prepare a statement of common ground with relevant neighbouring councils and other organisations on any strategic matters that require cross boundary cooperation.
 - A requirement that councils review adopted local plans within five years of the date of their adoption. This does not necessarily mean a plan will have to be revised; the requirement is to consider whether a revision is necessary and if so to then commence a review of the plan.
 - Setting out what contributions are expected from development. This is placing a considerable additional emphasis on local plans to test and then set out what levels of developer contributions will be required for any identified affordable housing need; and also for any other forms of infrastructure required to deliver the plan. The intention is for local plans to effectively set out the infrastructure requirements that may have previously been negotiated within individual planning applications. The NPPF is accompanied by updated Planning Practice Guidance which provides comprehensive details on how to deal with viability within local plans. This is welcomed as it provides a stronger position for local planning authorities to request upfront information from site promoters. It also states that developers should have regard to policies in the Plan as the price paid for land is not a justification for not according with relevant policies.
 - Paragraph 57 says applications that comply with contributions policies "should be assumed to be viable". It goes further by stating it is up to the applicant to demonstrate whether particular circumstances justify the need for a viability assessment at the application stage. The paragraph also emphasises that viability assessments "should be made publicly available". This is welcomed as

it will make the process more accountable and open to both Members and the public, in that being more open and allowing a greater understanding of how figures are calculated is a positive step forward.

- The importance of well-designed places is consolidated in the revised NPPF within section 12. This places a stronger emphasis on the role of local plans in developing a suitable framework for encouraging good design.
- Setting out the revised tests of soundness that largely follow what was previously expected with three notable changes:
 - Under the positively prepared test highlighting the links between local authorities where unmet needs (primarily housing but could be employment) need to be considered.
 - With respect to the justified test, plans will now have to demonstrate they are “an appropriate strategy” as opposed to the previous “most appropriate strategy” approach. This potentially provides a more flexible interpretation of this test than previously applied.
 - For the effective test a continued emphasis on demonstrating joint working between local authorities and any other strategic organisations with the inclusion of the statement of common ground as a key element of the evidence required to demonstrate the test has been met.

3.16 Green Belt

Section 13 covers Green Belt and additional guidance is included for local authorities where changes are being proposed to remove land from the Green Belt via the Local Plan process.

“Before concluding that exceptional circumstances exist to justify changes to Green Belt boundaries, the strategic policy-making authority should be able to demonstrate that it has examined fully all other reasonable options for meeting its identified need for development. This will be assessed through the examination of its strategic policies, which will take into account the preceding paragraph, and whether the strategy:

a) makes as much use as possible of suitable brownfield sites and underutilised land;

b) optimises the density of development in line with the policies in chapter 11 of this Framework, including whether policies promote a significant uplift in minimum density standards in town and city centres and other locations well served by public transport; and

c) has been informed by discussions with neighbouring authorities about whether they could accommodate some of the identified need for development, as demonstrated through the statement of common ground.”

3.17 **Development Management**

The updated NPPF now incorporates a four page section on decision making with a focus on the importance of pre-application discussions and front loading. Paragraph 46 also sets out the Government's view that applicants and local planning authorities should consider voluntary Planning Performance Agreements (PPAs) where this might achieve a "faster and more effective application process". This relates to the larger complex planning applications. This is welcomed at BwD as the Enhanced Services which included the provision of PPAs were formally adopted in April this year. The Development Management working with the Growth Team are actively promoting this service relating to the larger major applications identified in the Growth Pipeline.

- 3.18 The most fundamental change in the new NPPF which raises concerns is within Paragraph 55 where the use of pre-commencement conditions is now more difficult. These are the conditions that usually require a certain action to be taken before the development commences. The Government now advise in the paragraph and subsequent footnote, that their use should be kept to a minimum and only be used when they are agreed with the applicant. This comes into force from the 1st October 2018. Officers consider this will place a greater burden on applicants to provide more detailed information in advance of the grant of planning consent, thereby delaying the determination of the application. So in effect, will this speed up the overall process of development? Members should also be aware when they are considering and assessing a planning application presented to them at Committee, a pre-commencement condition cannot be imposed by the Members. It will require the application being deferred to allow discussions to take place between the officers and applicants to ensure the applicants are in agreement. This will further delay the determination of the application.

3.19 **Developer Contributions: S106 and Community Infrastructure Levy**

The LPA often on major development schemes require a legal agreement to accompany a planning approval to ensure the provision of affordable housing, green infrastructure, education requirements, highways and other forms of on and off-site contributions. The Community Infrastructure Levy (CIL) was brought in a number of years ago as an alternative to a legal agreement (S106), however following extensive work it was determined that CIL was not a viable option in BwD. As such, S106 Agreements would continue to be used. When CIL was introduced in April 2010, the Government restricted the use of S106 Agreements to an upper limit of five for any one piece of infrastructure, which was known as "pooling". However, this made it more difficult for local authorities to deliver infrastructure. It required officers to use precise wording within the covenants of S106 Agreements.

- 3.20 At the same time as the updated NPPF consultation, the Government published a consultation document titled "Supporting Housing Delivery Through Developer Contributions" – Reforming developer contributions to affordable housing and infrastructure. This reflects many of the changes to the operation of the Community Infrastructure Levy (CIL) and S106 contributions that were outlined

within the Autumn Budget in 2017. It was anticipated that Regulations would be laid at the same time as the publication of the NPPF in the summer, however this has not happened. One of the main changes being proposed is the removal of the “pooling” restriction subject to certain criteria being met, but these have not yet been confirmed.

4. POLICY IMPLICATIONS

- 4.1 The policy of the Council does not change in respect of this report. However, the emphasis of the updated NPPF for local planning authorities to have up-to-date local plans particularly where the current local plan is over five years old, has brought forward BwD’s review of the Local Plan. A revised Local Development Scheme (LDS) was formally adopted in January 2018, which identifies the work programme for the next three years. It has been agreed by the Council's Executive Board and came into effect on 16th February 2018. The timetable set out in the LDS shows that the new Local Plan is proposed to be adopted in the autumn of 2021.

5. FINANCIAL IMPLICATIONS

- 5.1 The Growth Team are leading on the review and adoption of the new Local Plan. Resource implications will be met from within existing Growth Team budgets. This will include: Update evidence documents to establish up-to-date housing and employment land requirements; and produce an updated Retail Capacity Study, to understand quantity and type of retail developments needed in the Borough to support sustainable economic growth. A number of potential areas of search for strategic development land have been identified at a high level. Initial technical assessments are needed, along with a Green Belt review of those areas.

6. LEGAL IMPLICATIONS

- 6.1 None.

7. RESOURCE IMPLICATIONS

- 7.1 None

8. EQUALITY IMPLICATIONS

- 8.1 An Equality Impact Assessment is not required. These are changes to national policy and guidance, therefore no local equality impact assessment has been made.

9. CONSULTATIONS

- 9.1. This report will be presented to the Planning Cross Party Working Group at its next meeting on the 16th October 2018.

10. RECOMMENDATION

- 10.1.1 (i) That the Committee note the content of the revised NPPF and the Housing Delivery Test Measurement Rule Book from the Ministry of Housing, Communities and Local Government

Contact Officer: Gavin Prescott, Planning Manager (Development Management)

Date: 6th September 2018

Background Papers:

National Planning Policy Framework (July 2018)

Housing Delivery Test Measurement Rule Book (July 2018)

If you have any queries about this report or wish to inspect any of the background papers, please contact the author.