

## **AGENDA NO**

## **PLANNING COMMITTEE**

**21<sup>st</sup> September 2011**

## **REPORT OF CORPORATE DIRECTOR, DEVELOPMENT AND NEIGHBOURHOOD SERVICES**

### **TITLE: CONSULTATIONS ON DRAFT NATIONAL PLANNING POLICY FRAMEWORK AND THE LOCAL PLANNING REGULATIONS.**

#### **SUMMARY**

The purpose of this report is to inform members that the government is consulting on two documents which are of significance to the preparation of Local Plans; the Draft National Planning Policy Framework (NPPF) and the Local Planning Regulations. The NPPF will also be of significance in the determination of planning applications. The Council's proposed response is attached at Appendix 1 for members' information and comment. Brief comments on the Local Planning Regulations are included in the report at paragraph 29.

#### **RECOMMENDATION**

1. Endorse the two draft officer responses as the Council's response for submission to the government in response to the two consultations.
2. Suggest additional comments for inclusion in the Council's response to government.

#### **BACKGROUND**

### **DRAFT NATIONAL PLANNING POLICY FRAMEWORK (NPPF)**

#### **Introduction**

1. The NPPF is a radical streamlining of existing Planning Policy Statements and some circulars to form a single consolidated document. It condenses almost 900,000 words of national planning policies (over 1,000 pages) into a user friendly and accessible document which can be understood by everyone who has an interest in shaping the development of their area. When it is published, it will replace all existing planning policy guidance and statements (PPGs, PPS, MPG, and MPS) and some Circulars.
2. The document is arranged under the following headings; plan-making, development management, planning for prosperity, planning for people and planning for places. The document re-iterates that the purpose of planning is to deliver sustainable development and defines this around three headings:
  - Planning for prosperity defined as an economic role;
  - Planning for people; a social role
  - Planning for places; an environmental role.
3. The emphasis is very much on supporting sustainable economic growth and is designed to turn the planning system round from one which focuses on

barriers to one which prioritises opportunities. Planning will still be plan-led but local plans have to be up-to-date and in conformity with the NPPF. Where a plan is silent, indeterminate or out of date, permission should be granted for development. However development which has a significant effect on sites protected under the Birds and Habitats Directives would not be considered sustainable under the Framework. Neighbourhood planning will give communities the opportunity to support local development with the power to promote more development than is set out in the local plan. Developers are expected to respond to the needs of the communities and national incentives and local charges will help ensure local communities benefit directly from the increase in development that the Framework aims to achieve. Revenue generated from development will help sustain local services, fund infrastructure and deliver environmental enhancements.

4. The Framework sets out some Core Planning principles underpinning both plan making and development management. Planning should:
  - be genuinely plan-led with succinct local plans, a positive vision for the area providing a practical framework to give a high degree of certainty and efficiency for decision-making,
  - proactively support the development that this country needs by identifying and meeting housing, business and other development needs of an area and respond to wider opportunities for growth,
  - take into account local circumstance and market signals such as land prices, commercial rents and housing affordability.
  - Take into account the environmental quality or potential quality of land in considering the future use of land,
  - protect and enhance environmental assets and heritage assets, reduce pollution and where possible to direct development to land of lesser environmental value,
  - make effective use of land , promote mixed uses and encourage multiple benefits, recognising that open land can perform many functions,
  - enable the re-use of existing resources, for example through the conversion of existing buildings, and encourage rather than restrict the use of renewable resources,
  - actively manage patterns of growth that make the fullest use of public transport, walking and cycling and focus growth in locations which are or can be made sustainable,
  - support local strategies to improve health and wellbeing,
  - seek to secure a good standard of amenity for existing and future occupants.

In addition:

- the default answer to development proposals should be “yes” except where this would compromise the key sustainability principles,
- plans should set out a clear strategy for allocating sufficient land.

## **Detail.**

### Plan-making.

5. When reading the NPPF, it is important to remember that most of what it contains is simply a summary of existing guidance reiterated in a much simplified form. However in other instances, the NPPF introduces real changes to the development plan system.
6. Development plans are to return to their former designation of “local plan” which is intended to be a single document which encourages growth and meeting development need. Additional plans should only be prepared when clearly justified and Supplementary Planning Documents should only be necessary when they can help bring forward sustainable development at an accelerated rate.
7. Plans should set out strategic priorities for the borough and are to be positively prepared. They should be aspirational but realistic. It should only contain policies which provide a clear indication of how a decision maker should react to development proposals. In addition, they should:
  - plan positively for development and infrastructure needed to deliver it,
  - be drawn up over an appropriate timescale, preferably 15 years or longer,
  - indicate broad locations for strategic growth on a key diagram and land use designations on a proposals map,
  - allocate sites to promote development and flexible uses of land providing detail on form, scale, access and quantum of development,
  - identify areas where it might be appropriate to limit freedom to change the uses of buildings,
  - identify land which it is genuinely important to protect from development,
  - contain a clear strategy for the environmental enhancement of the area.
8. Plans are to be prepared with early and meaningful engagement of local communities, businesses and organisations. Up-to-date plans are fundamental to the system and it will be open to local planning authorities to seek a certificate of conformity with the Framework. They should also be prepared using an adequate, up-to-date and relevant evidence base about the economic, social and environmental characteristics and prospects of the area. Assessments and strategies should be integrated and take full account of relevant market and economic signals, such as land prices to inform judgements about levels of demand.

### Housing requirements.

9. LPAs should prepare a Strategic Housing Market Assessment to identify the scale and mix of housing and range of tenures likely to be required over the plan period to meet population and household projections. It should address the need for all types of housing including for services families and people wanting to build their own homes. A Strategic Housing Land Availability Assessment should also be prepared to establish realistic assumptions about the availability, suitability and likely economic viability over the plan period.

### Business requirements

10. LPAs should have a clear understanding of business needs within the economic markets operating in and across their area and should work together with other authorities and Local Enterprise Partnerships to prepare and maintain a robust evidence base to understand existing business needs and likely changes in the market. They should also work with the business community to understand changing needs and barriers to investment, including lack of housing, infrastructure or viability. The evidence base should be used to assess the amount and type of land or floorspace required for all types of economic activity over the plan period including for retail and leisure development. Reviews of land availability should be taken at the same time or combined with strategic land availability assessments. The role and function of town centres and the relationship between them, the capacity of town centres to accommodate new development should also be assessed. Locations of deprivation which may benefit from remedial action should also be identified, and the needs of the food production industry and any barriers to investment that planning can resolve.

### Infrastructure requirements:

11. LPAs should work across boundaries with other authorities to assess the need for all infrastructure and to ensure it can meet forecast demand.

### Minerals requirements:

12. Should be based on the best available information on the location and extent of minerals reserves and projected demand for their use.

### Environmental Assessment

13. Sustainability appraisal should be an integrated part of the plan preparation process and should consider all environmental, economic and social factors.

### Historic environment

14. LPA should have an up-to-date evidence base and should use it to predict the likelihood that currently unidentified heritage assets will be discovered in the future. LPAs should either maintain or have access to the Historic Environment Record.

### Health and Wellbeing

15. LPAs should work with public health leads and health organisations to take account of the health status and needs of the local population and any barriers to improving health and well-being.

### Ensuring viability and deliverability.

16. Sites and developments identified in plans should not be subject to such a scale of obligation and policy burden that their ability to be developed viably is threatened. To ensure viability, the costs of any requirements to be applied to a development should provide acceptable returns to a willing landowner and a willing developer to enable the development to be deliverable. Policies on local standards should be set out in the local plan. The Community

Infrastructure Levy (CIL) be prepared and tested alongside the local plan. CIL should also support and incentivise new development by placing a meaningful proportion of the funds raised with neighbourhoods where development takes place.

#### Cumulative Impact of Policy Burdens

17. LPAs should also assess the cumulative impact of all existing national and local standards, supplementary planning documents and policies that support the local development plan. The cumulative impact of these standards should not put implementation of the plan at serious risk and should facilitate development throughout the economic cycle. It is also important that there is a reasonable prospect that planned infrastructure will be delivered in timely fashion, so infrastructure and development policies should be planned at the same time.

#### Planning strategically across local boundaries

18. Public bodies have a duty to cooperate on planning issues that cross administrative boundaries especially those relating to strategic priorities. LPAs should also work collaboratively on the delivery of sustainable economic growth in consultation with Local Enterprise Partnerships. LPAs will be expected to demonstrate evidence of having successfully cooperated on cross boundary impacts when the plan is submitted for examination.

#### Examining local plans

19. Plans will be examined by an independent inspector who will assess if the plan has been prepared in accordance with the Duty to Cooperate, legal and procedural requirements to determine if it is sound; that is it is:
  - Positively prepared
  - Justified
  - Effective
  - Consistent with national policy.

#### Neighbourhood Local Plans

20. These must be in general conformity with the strategic policies in the local plan. However, when a neighbourhood plan is made the policies it contains take precedence over existing policies in the local plan where they are in conflict and LPAs should avoid duplicating planning processes for non-strategic policies where a neighbourhood plan is in preparation. A neighbourhood plan must be assessed by an independent examiner before it can go to a local referendum.

#### Comment

21. The NPPF is a pro growth, pro economic recovery strategy and the government has made it clear that planning must deliver, not prevent growth. There is a presumption in favour of sustainable development but sustainability is framed in terms of economic benefit. There are a number of important changes to the planning system:
  - The need for LPAs to identify land for a 5 year supply plus 20% of housing sites to ensure choice and competition in the housing supply,

- The abolition of the brownfield housing target,
- The removal of the caps on parking provision for major development,
- The introduction of the “duty to cooperate”,
- The emphasis on ensuring and supporting the viability of developments and for planning policies and decisions to respond to market signals,
- The need not to overburden developments with policy requirements,
- The removal of offices from the definition of a “town centre use,”
- The introduction of a new “Local Green Space Designation.”

22. The draft NPPF has been made available for comment for a 12 week period which ends on 17<sup>th</sup> October 2011. In addition to the draft NPPF document and the impact assessment, there is also a separate consultation document which contains a number of specific questions to which the government is seeking responses. Attached is a draft of the Council’s responses to these questions for members’ information and comment.

## **LOCAL PLANNING REGULATIONS CONSULTATION**

### Introduction

23. The Government is also consulting on proposals to amend the regulations on preparing local plans. The process of preparing a local plan is currently set out in the Planning and Compulsory Purchase Act 2004 and the Town and Country (Local Development) (England) Regulations 2004 and the Town and Country Planning (Local Development)(England)(Amendment) Regulations 2008. The Localism Bill will amend the 2004 Act and this consultation seeks views on revised regulations to replace the amended 2004 Regulations.

24. The main issues that the 2004 Regulations cover are:

- The form and content of plans and supporting information
- The process of preparing, consulting and examining development plan documents,
- The process of preparing non-statutory supplementary planning documents,
- Joint documents prepared by more than one Council,
- Publicising information on plan preparation.

### Why do the regulations need to change?

25. Through the Localism Bill, the Government is seeking to change the culture of planning by removing a centralised bureaucracy and returning decision making to local councils and communities. Therefore it is introducing a number of changes to the way local plans are prepared. The main changes proposed in the Localism Bill include;

- introducing a Duty to Cooperate, requiring councils and other public bodies to work together on planning issues;
- making the preparation of local plans simpler and more transparent so that local councils and communities have ownership of that plan;
- removing the Planning Inspector’s powers to impose changes to a local plan after the public examination and allowing councils to make non-material changes themselves.
- allowing councils to withdraw a development plan document at any time before its adoption. If the plan has been submitted for examination, the

recommendation of the inspector or a direction from the Secretary of State is no longer required;

- Require councils to prepare and maintain a local development scheme but no longer require them to submit it to the Secretary of State.
- Remove the requirement for councils to publish an annual monitoring report for the Secretary of State but maintain the requirement for an “authorities’ monitoring report,” to be prepared for local people, available on-line and in council offices as soon as the information is available to the public, rather than waiting to publish the information in an annual report.

### Summary of Changes to the Regulations

26. The revised regulations:

- introduce a list of public bodies that the Duty to Cooperate applies to and requires that these bodies take account of the views of local enterprise partnerships;
- sets out a simple definition of development plan document;
- removes the current regulations on local development schemes;
- streamlines the regulations on the preparation of supplementary planning documents, in particular in relation to the role of the Secretary of State;
- removes the need to seek compliance with the Regional Spatial Strategy ;
- removes detailed prescription for public participation in the preparation of the statement of community involvement;
- removes the requirement to prepare a monitoring report for the Secretary of State;
- prescribes the minimum information to be included in monitoring reports and requires that information to be made available online and in Council Offices as soon as it is available to the council rather than waiting to publish an annual report

27. The basic process of plan preparation is not changing to accommodate EU requirements and consists of an engagement stage and one formal consultation stage before submission to the Secretary of State for examination in public.

### The consultation exercise.

28. There are four consultation questions (see below). However, a comparison with the 2004 and 2008 Regulations indicates that the proposed Regulations do reflect the changes proposed to the system of development plan preparation by the Localism Bill. There are only a few comments to be made. The consultation ends on 7<sup>th</sup> October 2011.

### Proposed Response.

29. This is much shorter than the proposed NPPF response and so is presented here.

#### **1. Do you agree that the revised regulations effectively reflect the changes proposed in the Localism Bill?**

Part 4 paragraph 9, the Regulations omits guidance on the need for a LDD to be identified with the name of the LPA, whether it is a DPD or SPD and the subject matter of the LDD and in paragraph 10 there is no guidance about the

use and format of inset maps, also the requirement to show grid lines and reference numbers is omitted.

Part 4 paragraph 9 (3) states; "The policies contained in an SPD ...." It was always understood that an SPD was intended to supplement or amplify policies contained in a statutorily prepared DPD and which had been subject to full examination and legal process. SPDs could not contain policies because of their simplified preparation process and the fact that they were not subject to independent examination.

There is no mention of the procedure for obtaining a "Statement of Conformity" with the NPPF, mentioned in paragraph 26 of that document.

It would be useful to have a definition of "adopted local plan" would be useful as it could comprise a variety of documents e.g. "saved local policies" and parts of adopted Local Development Frameworks.

There is no regulation about the requirement for replacement Local Development Schemes which must be published locally, whilst the page 10 of the Background to the new Regulations states that Councils will have the flexibility to decide how best to present this information, some guidance on form and content would be beneficial.

There is no procedural guidance on the preparation of neighbourhood plans and the LPA's supporting and advisory role in that process.

**2. Do you agree with the list of bodies included in the duty to cooperate?**

Adjacent local planning authorities should be added.

**3. Do you agree the revised regulations effectively consolidate the 2004 regulations with the revisions in 2008 and 2009?**

Yes, apart from those items mentioned in the responses to questions 1 & 2.

**4. Are there any ways in which the regulations should be changed in order to improve the process of preparing local plans, within the powers set put in the Planning and Compulsory Purchase Act and the Localism Bill?**

N/R

**Corporate Director of Development and Neighbourhood Services  
Contact Officer Name and Telephone Number:  
Rosemary Young,  
Spatial Planning Manager.  
01642 526054**



**Financial Implications** – The Government state that the implementation of the proposals contained in the NPPF will reduce the cost of running a planning service by making the process more straightforward and easy to understand

**Environmental Implications** - The purpose of these consultations is to improve the procedures by which sustainable development will be delivered in the Borough.

**Legal Implications** – When adopted the National Planning Policy Framework will provide the guidance for the preparation of planning policy documents and the determination of planning applications.

**Community Safety Implications** - The Draft NPPF contains guidance on the need for Local Development Documents to continue to have regard to community safety in all new developments.

**Human Rights Implications** - The provisions of the European Convention of Human Rights 1950 have been taken into account in the preparation of this report.

**Background Papers** –

Draft National Planning Policy Framework

Draft National Planning Policy Framework: Impact Assessment

Draft National Planning Policy Framework: Consultation

Local Planning Regulations: Consultation

All are available at [www.communities.gov.uk](http://www.communities.gov.uk)

**Ward**

All Wards and Ward Councillors are equally affected by this report

## Draft National Planning Policy Framework

### Consultation Responses

#### Policy Consultation Questions and Responses

##### Q1a. The Framework has the right approach to establishing and defining the presumption in favour of sustainable development

###### Response.

The Council **strongly disagrees** with this statement and does not consider that the Framework has adopted the right approach.

- i) Paragraph 9 sets out the 1987 definition of sustainable development, and the interpretation of how this will be achieved seems to be at odds with the definition. The definition of sustainable development is weighted too much in favour of planning's economic role. The function of planning is, and should remain, to objectively weigh all of the material factors in the balance and to determine if a proposal is sustainable development, which is in the public interest. Greater weight should be given to social and environmental considerations within the NPPF.

In particular, the emphasis upon the economic aspect of sustainability could have significant consequences for housing developments. As it can be argued that any housing development supports economic growth, there is a significant risk that this could lead to housing development in unsuitable locations and/or without the necessary credentials in terms of design, layout, housing mix and relationship to infrastructure capacity.

- ii) In Paragraph 11 there appears to be a contradiction. In what is described as development being planned and undertaken responsibly in the light of the proposed NPPF as it ignores important economic principles and the significant disparity between average incomes and minimum house prices.

Whilst it is understood the Government are committed to ensuring the planning system does everything it can to support sustainable economic growth, the planning system currently is considered to be the most proactive it has ever been. The fundamental difference has been over the allocation of land for residential purposes and responding to market signals.

- iii) In Paragraph 14, Bullet Points 1 and 3: There is concern that the requirement for Local Plans to respond to rapid shifts in demand or other economic changes does not take account of the time required for policy development and the 15 year lifespan of development plans. This in itself does not allow for a response to short term shifts in demand and market forces. Should there be a requirement for Local Plans to respond to the short-term economic changes, there would be reduced certainty for investors and developers.
- iv) Paragraph 14 states that that Local Planning Authorities should grant [planning] permission where the plan is absent, silent, indeterminate or where relevant policies are out of date. There is concern that Development Plan Documents will need to contain policies to cover all types of development and that they would effectively become a development control manual.
- v) Paragraph 18 states that, in relation to neighbourhood planning, that “The revenue generated from development will help sustain local services, fund infrastructure and deliver environmental enhancement.” It is considered that this is somewhat contradicted by paragraphs 39 to 43 which deal with “ensuring viability and deliverability.”

Paragraph 39 advises that development identified in the plan should not be subject to such a scale of obligations and policy burdens that viability is threatened and developers and landowners are not provided with acceptable returns. Paragraph 40 discusses the Community Infrastructure Levy, which imposes another financial burden on development. Paragraph 41 advises local planning authorities to assess the likely cumulative impacts of all national and local policy requirements on the implementation of the plan.

It is considered that that, if in times of economic recession, Local Planning Authorities are advised to scale back their development requirements, planning will not be able to deliver local services, infrastructure and environmental enhancements. Local communities will also be highly unlikely to benefit from national incentives and local charges. The fact that a site may require substantial off site infrastructure goes unacknowledged and this will increase pressure for the burden being met by the local community.

- vi) Paragraph 18 discusses the issue of good design. The view is taken that good design in development has always been a matter of contention by the development industry and fundamentally comes down to a matter of cost and profit. It is noted and unfortunate that the NPPF is not explicit and does not detail that good design should be based on important architectural principles or that in practice that the design of developments would be directly influenced by a minimal cost approach.
- vii) Paragraph 18 also sets out that ‘those responsible for bringing forward development are expected to play their part in recognising and responding to the needs of communities’. However, there is concern that there will be conflict between responsibilities to communities and a company’s fundamental responsibility to its shareholders.
- viii) In Paragraph 19:

- Bullet Point 1- It would be helpful if this point contained some guidance on what is meant by up-to-date plans, and how this will relate to the length of time required to prepare and adopt a sound Local Plan.
  - Bullet Point 3 – Existing local planning policies take account of local circumstances in an area and one that is suffering from the recession, but this still does not enable the difference between average earnings and new dwelling prices to be reconciled. In particular, land prices, commercial rents and housing affordability are considered to be poor market signals upon which to begin to address the lack of new house building for the majority of people seeking affordable accommodation.
  - Bullet Point 6 – The purpose of the examples in this point is questionable.
  - Bullet Point 7 – It is considered that this statement is too general and ignores location and sustainability and local assessment.
  - Bullet Point 8 – This point could benefit from some tighter re-drafting. The current statement would allow any developer to argue that their developments can be made sustainable. What should be required is for the developer to agree to, and make a commitment to, actually making their developments sustainable.
- ix) Paragraph 19 makes reference to planning policies and decisions bringing a 'high degree of certainty' whilst taking into account 'local circumstances and market signals'. It is not clear how a high degree of certainty in the planning system can be achieved when policy shifts according to market forces and changes in local circumstances. Key questions about 'market signals include:
- Which market signals will warrant changes in planning policies; only vague examples are given. Who will collate and verify the information?
  - How significant must market signals be to change planning policy and how long must they endure?
  - Will national, regional and sub-regional market signals also be relevant; if so how will these be collated and verified and consistency between local planning authorities be ensured?

In addition to the above, the chapter contains no mention of localism in the definition and this is a key plank in the Localism Bill so there should be consistency there.

**Q2a. The Framework has clarified the tests of soundness, and introduces a useful additional test to ensure local plans are positively prepared to meet objectively assessed need and infrastructure requirements.**

**Response:**

The Council **strongly disagrees** with this statement.

- i) Paragraph 22 states that local plans should be aspirational, albeit tempered with some realism. The LDF system emphasised the deliverability of plans and perhaps that emphasis should be retained for clarity.
- ii) Paragraph 26 states that “it will be open to local planning authorities to seek a certificate of conformity with the Framework.” It would be beneficial if this paragraph provides additional information to explain the procedures for seeking conformity and to identify whether recently adopted Core Strategies and DPDs will automatically be considered to be in conformity with the Framework.
- iii) In respect of Paragraph 27, it is considered that the further detail should be provided on the relevant market and economic signals that should be considered. This paragraph ignores the influences upon depth and quality of information as well as the period it relates to. Land values and rental prices will always differ according to location and development potential and local plan policies.
- iv) Paragraph 28 states that “the Strategic Housing Market Assessment [SHMA] should identify the scale and mix of housing and the range of tenures that the local population is likely to require over the plan period”. It is important to clarify whether this means that SHMA is now the primary means by which the overall housing requirement for the plan period is now determined.
- v) Paragraph 28 at Bullet Point 1 ignores the difficulties of what is a realistic assumption and the financial constraints in obtaining funds to develop, complete and achieve 100% occupation of a development.
- vi) In respect of Paragraph 30:
  - Bullet Point 1 – The current Local Plan policies and reviews already take into account foreseeable needs for economic development including retail and leisure. However, the quantity and quality will always change over the plan period as the national and local economies change.
  - Bullet Point 2 - The first sentence of this point is unnecessary repetition of part of bullet point 1.
  - Bullet Point 6 – It is considered that a definition of food production industry should be provided. There are significant differences between the needs of agricultural businesses and food manufacturing companies and the term food production industry could apply to either.
- vii) In Paragraph 32 it would helpful if the NPPF was more explicit about the source of the best available information on the extent and location of minerals. Would the British Geological Survey or elsewhere provide this?
- viii) Paragraph 39 contains two phrases, which, the Council considers, would benefit from clarification, and these are ‘viability’ and ‘acceptable returns’. Further to this, it should be clear who determines what these concepts mean in practice? If they vary and depend on individual circumstances and the

Framework expects Local Planning Authorities to rely on the open book approach, or some other such mechanism, then it should say so. In addition, if this is the advice, who pays for the independent financial assessment? It is also necessary to consider the delay in determining planning applications when such a procedure needs to be followed, particularly in current circumstances when a number of applications may require such assessment.

- ix) Paragraph 39 also states “to enable a plan to be deliverable, the sites and scale of development identified in the plan should not be subject to such a scale of obligations and policy burdens that their ability to be developed viably is threatened”; this appears to be based on wishful thinking. For example, if a proposed development such as a major housing development requires major highways improvements to mitigate the impact on the highways network but the developer contends that this would render the development un-viable, where are the funds going to come from? Local Authorities are not in a position to bear unmet infrastructure costs of development and this will have a significant impact upon infrastructure planning and delivery, placing a strain on existing infrastructure that will be wholly inimical to the economic growth agenda that appears to be driving the draft NPPF.
- x) Paragraph 41 states that Local Planning Authorities should assess the cumulative impacts on development of all existing and proposed local and national standards so that they do not put the implementation of the development plan at risk. The purpose of these requirements is to overcome the impacts of developments themselves to ensure that services are provided for future occupiers and users of new developments and to maintain amenity of existing residents to ensure their future quality of life is not compromised. Assessing cumulative impacts implies set priorities for contributions and evaluation of the importance of flood defences against highways infrastructure or open space provision. Each of these elements is needed to deliver sustainable development and it would be invidious to attempt to prioritise one over the other.
- xi) Paragraph 48 at Bullet Point 2: It is considered that guidance on what constitutes “proportionate evidence” should be provided.
- xii) Paragraph 51 states that the policies in neighbourhood plans will take precedence over Local Plan policies where they are in conflict. Surely in some instances this would contradict Paragraph 50, which states neighbourhood plans should be in general conformity with the strategic policies of the Local Plan?

**Q2c. The policies for planning strategically across local boundaries provide a clear framework and enough flexibility for Councils and other bodies to work together effectively.**

**Response:**

The Council **neither agrees or disagrees** with this statement.

- i) Paragraph 46 states that Local Planning Authorities will be expected to demonstrate evidence of having “successfully cooperated to plan issues for

cross boundary impacts when their plans are submitted for examination.” Many Local Planning Authorities already have experience of cooperative working and in dealing with cross boundary issues, however, there are concerns over what would happen should an Local Planning Authority have an “unwilling” neighbouring Local Planning Authority and be unable to demonstrate successful cooperation, despite having attempted to work cooperatively. There should also be guidance on what to do in this circumstance if councils and bodies cannot reach agreement amongst themselves. In the past the procedures for preparing Regional Spatial Strategy provided an opportunity for resolving such disputes.

**Q3a. In the policies on development management, the level of detail is appropriate.**

**Response:**

The Council **disagrees** with this statement.

- i) Paragraphs 53 and 54 refer to objectives and approach to development management. Whilst the authority accepts that the primary objective of development management is to foster the delivery of sustainable development, not to hinder or prevent development, the new definition of sustainable development proposed is primarily economic based and does not relate to the impact, either individually or cumulatively, to the community.

Stockton Council is proactive in fulfilling its planning role, by actively promoting sustainable development and approaching development management decisions positively. It also attaches significant weight to the benefits of economic and housing growth. However, the proposed guidance minimises a Local Planning Authority’s ability to influence development proposals to achieve quality outcomes; enable the delivery of sustainable development proposals on the basis that economic necessity will normally outweigh any other consideration.

- ii) Paragraphs 56 – 61 consider pre-application engagement and front loading. There is agreement with the statement in Paragraph 59, which says that the right information is crucial to good decision making, particularly where formal assessments are required, such as Environmental Impact Assessments, Habitat Regulations Assessments and Flood Risk Assessments. Further to this there is no argument with the Framework view that, delay should be avoided, developers should discuss what information is needed with the Local Planning Authority and expert bodies as early as possible.

However, the proposed guidance ignores the current and proposed statutory validation requirements. Since March 2010, validation requirements require an application to be validated, even if the quality of information is unacceptable, as this is not considered to be reasonable grounds for not validating a planning application. Notwithstanding the need for the planning officer to go back to the applicant/agent during the processing of the planning application to have accurate information submitted, it also has significant consequences for consultees on planning applications, such as Natural England and the Environment Agency, who require accurate and appropriately detailed information to assess impact and the acceptability of

the application. In the case of Natural England, their ecology comments are particularly important in relation to the Habitat Regulations Assessment. Consequently, in the case of applications containing poor quality information, their response is severely limited to placing a holding objection and pointing out the deficiencies of the submission. While the Local Planning Authority could refuse the planning application, this would obviously add to the delay in enabling the development to go forward and would involve additional costs of reconsultation if the application has to be resubmitted.

It is considered that the Framework should reinstate the quality of information as a criteria of validation and provision should be made for a situation where the Local Planning Authority and the applicant can enter into a post application submission Planning Performance Agreement to address information deficiencies in the application without “running out of time” for determination under the current proposals. Experience of Planning Performance Agreements has demonstrated that, even with the most careful project planning, additional information or clarification may still be required, which lengthens and delays the Local Authority’s ability to determine the planning application. The reduction of the period in which the Local Planning Authority has to determine a planning application will not assist the applicant, the community and consultees and will only serve to act as a barrier to facilitating sustainable development and its contribution to the local economy.

**4a: Any guidance needed to support the new Framework should be light-touch and could be provided by organisations outside Government.**

**Response:**

The Council **neither agrees or disagrees** with this statement. The approach is acceptable as long as the status of the guidance in the planning process is clear and whoever prepares it has a clear understanding of the planning process.

**4b: What should any separate guidance cover and who is placed to provide it?**

**Response:**

Some obvious suggestions are:

- Environment Agency Guidance on Strategic Flood Risk Assessments
- Natural England on Appropriate Assessment under the Habitats Regulations.

**5a: The ‘planning for business’ policies will encourage economic activity and give business the certainty and confidence to invest.**

**Response:**

The Council **disagrees** with this statement

- i) It is considered that the document contradicts itself and will not provide certainty for developers. Council’s are required to set out a vision, strategy,



strategic sites, and guidance to support business sectors and clusters (Paragraph 73). However, Paragraph 75 suggests that Council's should avoid the long-term protection of employment land or floorspace. This stance means that Council's do not have the freedom to establish locally identified economic priorities in planning policy. This will clearly undermine the use of land earmarked for economic development as:

- developers will not be developing or reusing employment sites as there is the possibility inappropriate neighbouring uses may occur.
- the land-holder will bank the land for more lucrative land uses

Furthermore the presumption in favour of sustainable development is biased in favour of economic development. This further undermines any strategy adopted under the guidance in Paragraph 73. Councils will struggle to enforce their strategies and, as a result, this lighter touch management of development will eventually create a market overburdened with competing prospective developments. This increased level of competition will reduce the developer's and the banking sector's confidence in the viability of a scheme and lead to the postponement or cancellation of developments. This will particularly affect regeneration sites, but will also affect privately funded developments, which may not receive the funding from the banking sector.

In addition, a light touch approach to transport impact will be compounded by office development being removed from the Town Centre Use definition. This means that this high-traffic generating use will be located at inappropriate locations resulting in traffic congestion. This will impact on regeneration schemes in two ways as they will become less viable in the office market and any transport capacity will be already taken up.

Finally on this point, the NPPF does not have reference to the recent consultation on changes of use which will, if taken forward, will have a fundamental impact on investor choice and employment land availability (i.e. employment land-banking for residential). This could undermine the Council's ability to draw up a strategy and affect a businesses desire to locate in a particular area.

### **5c: What market signals could be most useful in plan making and decision, and how could such information be best used to inform decisions?**

#### **Response:**

Annex C to Planning Policy Statement 4 Planning for Sustainable Economic Growth (PPS4) sets out a lengthy list of market signals, and this should be the starting point. The Government should be explicit regarding the broad scope of market signals it expects Council's to consider, to ensure conformity across the country. However, there should be recognition of local distinctiveness and the potential for innovation where appropriate. Equally it should also include and recognise the financial commitment of the existing and developing infrastructure phasing programme and the implications that would arise from following new development proposals, which would generate their own un-funded infrastructure requirements.

**6a: The town centre policies will enable communities to encourage retail, business and leisure development in the right locations and protect the vitality and viability of town centres.**

**Response:**

The Council **strongly disagrees** with this statement.

The removal of significant detail in this complicated area will undermine local authorities approach to protecting and enhancing town centres and lead to out-of-town development. The removal of much of the guidance means that the reader requires prior knowledge of the planning system. This lack of detail may disenfranchise communities from involvement in decision-making.

The definition of town centre uses is not included in the document. In current guidance, this provides certainty on what should be directed to a town centre location. The NPPF suggests that retail and leisure uses only should be directed to town centres. Furthermore there is a policy vacuum surrounding office, hotels and tourism development in urban areas. As the NPPF is silent on these issues it is clear that these uses can, in principle, locate anywhere under the new regime. This can only be detrimental to existing town centres, proposed regeneration schemes and the highway network. If they are no longer considered town centre uses discussion of these uses should be part of the 'Business and Economic Development' section of the NPPF.

With regard to removing office development from the town centre use definition, the impact assessment provides additional detail stating,

*"The objective of the change is to free office development from the need to follow the requirements of the 'Town Centre First' policy and for proposals to be judged on their individual merits including taking account of local and national policies on the location of new development that generates significant movement of people and the relative supply and demand of/ for office space in different locations"*

and

*"Office development will still be subject to the policy requirement to locate development that generates significant people movement in accessible locations where sustainable transport modes can be maximised."*

If the first point is Government policy it should be made explicit in the NPPF document, not the Impact Assessment, so that it is material to planning decisions. Furthermore, it is considered that the second statement over-emphasises the guidance in the transport section of the NPPF (Paragraph 88), and crucially omits the statement, *"However, this needs to take account of policies set out elsewhere in this framework"*, which weakens the statement.

The NPPF maintains the Local Planning Authorities duty to identify a network and hierarchy of centres. However, all of the definitions of what normally make up a centre have not been included. This could be in order to encourage localism, however, it is likely that it will create local or sub-regional

variations that may be confusing for developers. This lack of guidance may lead to pressure on Local Authorities to include out of centre retail development within the retail hierarchy. This lack of clarity would increase the length of time spent in plan preparation and the cost of the evidence base and could result in High Court action on plans, further increasing local authorities costs. Ultimately the vitality and viability of centres would be put at risk by this absence of guidance.

Reconsidering the use of the word 'prefer' in Paragraph 78 could further strengthen the sequential test, as this implies that an alternative option could be entertained. A stronger alternative would be the word 'direct'. The NPPF also puts the requirement to undertake a sequential test on to Local Authorities, rather than the applicant as stated in PPS4 policy EC15 and EC17. This means that in many instances the sequential test will only be applied at an advanced stage in planning application stage, rather than being a fundamental part of site appraisal by developers. Furthermore, it may be seen that the sequential test is reduced from a role where it genuinely guides development to simply being viewed as a piece of bureaucratic red-tape applied by Council's to prevent development.

It is considered that the removal of detail will weaken the sequential test. The NPPF also makes no reference to operators employing a flexible approach or dis-aggregation. Indeed the replacement of this guidance with the phrase 'where practical' (Paragraph 78) takes an approach contrary to that established in PPS4 and it's predecessors. This absence of guidance will reduce the effectiveness of the test, making it easier to identify an inappropriate site and undermine the point of the test. In addition to this loss of this detail is the need for the sequential test for sites to be assessed against their ability to meet the full extent of assessed quantitative and qualitative needs. This new requirement will weaken the sequential test, by providing additional reasons to discount development sites. Unlike other parts of the sequential test this new requirement does not benefit from it being established practice and it should be reworded clearly for the practitioners and the general public to be able to understand.

The weakening of the sequential test and the potential creation of more out of Town Retail Parks will only further harm Town Centres already struggling with reduced retail offer and footfall. This will create economic conditions similar to the 1980's when Town Centres suffered from the establishment of Out of Town Retail Parks which will not only significantly harm the vitality and viability of Town centres but also increase the reliance on the use of the motor car increasing the carbon footprint and disadvantaging the majority of the public relying on public transport.

Significant guidance about the scope of impact assessments has been removed, which may lead to inappropriate application of the test. The length of time for assessing an impact assessment has also been extended to 10-years. This approach is considered to be inappropriate and is a one size fits all approach to developments. The level of evidence should as the NPPF states, proportionate to the case. Therefore a sub-regional / regional level development with impact across multiple catchments could be assessed over a longer period, whereas a more localised development would be considered over 5-years. However, this would require explicit guidance in the NPPF.

Concern is also raised in respect of the 10-year time period and its application on smaller developments. Theoretically the impact of the smaller proposal with a significant impact at 5-years, could become acceptable over 10-years because of additional population/expenditure growth. The presumption in favour of sustainable development would mean that in cases where the 10-year impact is acceptable it would probably outweigh any impact over the first five years.

Finally on impact assessments, most retail need/impact assessments include a disclaimer that states they will be out of date after 5-years, because the reliability of economic projections declines beyond 5-years. Key decisions could therefore be made against over-ambitious growth assumptions, which is contrary to the precautionary approach of the town centre first approach.

The wording of the NPPF means that a number of large retail developments will not require impact assessment, if they are submitted before Local Authorities have had the opportunity to establish a local impact test trigger. This will lead to significant out-of-centre retail development during the transitional period following adoption of the NPPF. This is clearly against community and Local Authorities desire to enhance the vitality and viability of retail centres.

Significant guidance on the use of planning conditions for town centre uses will be deleted. As most local authorities do not repeat this guidance, their plans will be silent. The NPPF could lead to planning applications for the removal of planning conditions on retail units outside of defined town centre boundaries. Councils will have to determine these applications with a plan that is largely silent. The Government should be satisfied that this is not a loop-hole for an out of centre development to create further impact. The following text should be added after Paragraph 70 or Paragraph 80.

*“Local Planning Authorities should consider attaching conditions to out-of-centre retail and leisure proposals that pass the sequential and impact tests to ensure the character of the development is maintained. Considerations include; preventing, where appropriate, the sub-division or amalgamation of units; ensure that ancillary elements remain ancillary to the main use; limit any internal alterations to increase the gross floorspace; and limit the range of goods sold.”*

Finally, the Conservative parties Open Source Planning Green Paper, the basis for all recent planning reforms, states,

*“We will undo Labour’s changes to planning rules which have weakened councils’ ability to stop unwanted out-of-town development. We will ensure that a needs test is readopted, and will enable local councils to take competition issues into account when formulating their local plans.”*

The NPPF does not include a needs test or a competition test. By not adding a need or competition test the Government, by it’s own reasoning when in opposition, are advocating a national planning policy framework that they have previously identified as being unable to restrict out-of-town development.

## 7a: The policy on planning for transport takes the right approach.

### Response:

The Council **disagrees** with this statement.

The Council considers that the emphasis placed on supporting economic growth throughout the NPPF and in the transport section in particular could have significant unintended consequences for both the local and strategic road networks and the ability of future developments to produce and maintain sustainable communities.

- i) In respect of Paragraph 82, the Council notes a shift in the objectives of transport policy with maximising economic growth replacing maximising accessibility. Sustainability and health objectives are welcomed, as are the references to a balance in favour of sustainable transport modes and ensuring there are real choices about travel. However, these aims appear to be undermined in subsequent paragraphs.
- ii) Paragraph 83 and 84 discuss patterns of development which support reductions in green house gas emissions and congestion are likely to contribute to producing sustainable communities with good access to jobs, shops, leisure facilities and other services. However, if the 'planning for people' aspect of sustainable development outlined in Paragraph 10 is to be delivered, accessibility of jobs, shops, leisure and other services should receive greater emphasis in the objectives of the transport policy. Terms such as 'where practical' and 'where reasonable to do so' require further clarification.
- iii) Paragraph 86 details the requirement for consideration of whether a proposal takes up opportunities for sustainable transport modes depends on the nature and location of the site. This suggests that remote or inaccessible sites may be exempt because of their nature or location, defeating the object of the policy.
- iv) Bullet Point 3 of Paragraph 86, include the terms 'residual impact' and 'severe' need, and it is considered that these require further definition and/or clarification. This bullet point suggests that only the very worst impacts on the highways network will warrant refusal of a proposal, whilst developments which have significant but not severe impacts cannot be refused on highways grounds, even if mitigation cannot be achieved. Rather than facilitate increased delivery of homes and sustainable economic development, the resultant congestion and other highways issues, along with the loss of focus on city, town and district centres and public transport interchanges, may well undermine these objectives
- v) Paragraphs 88 and 89 are welcomed, particularly paragraph 88 which sets out a locational policy for developments which are likely to result in significant movement, focusing them where the need to travel will be minimised and the potential for public transport use will be maximised. This is considered particularly important for office developments, which are no longer classified

as Town Centre uses under the NPPF. However, it is concerning that both paragraphs 88 and 89 are qualified by statements which dilute these requirements through reference to policies elsewhere in the NPPF (presumably those promoting economic development) and only requiring location and design to promote and protect sustainable transport modes 'where practical'. This seems scant protection for the bullet points listed under paragraph 89 - does 'practical' mean economically viable?

- vi) In respect of Paragraph 92, while Local Authorities support mixed use developments, past experience has demonstrated that it is usually the provision of key facilities, such as schools and shops, that developers are reluctant to fund or make land available to achieve.
- v) Paragraph 93: It is presumed that this paragraph refers to local standards for car parking in all scales of residential and non-residential development, however this is not clear. The fourth bullet point is particularly obtuse. Does the 'overall need to reduce the use of high emission vehicles' refer to low emissions transport modes such as cycle parking and electric vehicle charging, or does it seek to encourage local authorities to impose maximum car parking standards?

**8a: Policy on communications infrastructure is adequate to allow effective communication development and technological advances.**

**Response:**

The Council **disagrees** with this statement.

- i) In respect of Paragraph 96: The reference to high speed broadband should be deleted and issue should be dealt with in general terms so that the policy can continue to apply to technological advances in the communications sector that may require permission. In addition most high speed broadband technology will be developed as permitted development and will not require consent or prior-approval. If this reference is to be retained it should be consistent with other Government departments that refer to 'super-fast broadband'.
- ii) It is considered that Paragraph 96 and 99 contradict each other. Paragraph 96 suggests that the need for an individual mast should be justified. Paragraph 99 suggests that the need for a new site should not be questioned. This should be clarified for members of the public who may have concerns regarding such development.
- iii) In Paragraph 98, at Bullet Point 3: In the interests of Plain English, this should refer to 'not exceeding recognised health safeguards' or a similar term. A footnote should be provided to give further information.
- iv) The lay-out of the chapter could be improved, for example.

*In preparing Local Plans and planning decisions, local planning authorities should support the expansion of the electronic communications networks. Applications for telecommunications development (including for prior approval under Part 24 of the General Permitted Development Order) should be*

supported by the necessary evidence to justify the proposed development. This should include:

- *the outcome of consultations with organisations with an interest in the proposed development, in particular with the relevant body where a mast is to be installed near a school or college or within a statutory safeguarding zone surrounding an aerodrome or technical site; and*
- *a statement that self-certifies that the individual and cumulative exposure, when operational, will not exceed recognized health standards*
- *for a new mast or base station, evidence that the applicant has explored the possibility of erecting antennas on an existing building, mast or other structure*

*Local planning authorities should not question whether a service to be provided is needed; impose a ban on new telecommunications development; insist on minimum distances between new developments or seek to prevent competition between operators.*

*Applications should be determined on the following planning grounds.*

- *Siting – with the aim to keep the numbers of radio and telecommunications’ masts and the sites for such installations to a minimum consistent with the efficient operation of the network. Existing masts, buildings and other structures should be used, unless the need for a new site has been justified.*
- *Design - Where new sites are required, equipment should be sympathetically designed or camouflaged where appropriate.*
- *Ensuring that communications infrastructure does not cause significant and irremediable interference with other electrical equipment, air traffic services or instrumentation operated in the national interest; and*
- *That the construction of new buildings or other structures does not cause interference with broadcast and telecommunications services.*

## **9a: The policies on minerals planning adopt the right approach.**

### **Response:**

The Council **disagrees** with the above statement.

- i) Paragraph 101, Bullet Point 4 should contain clarification of what the term proposed ‘new investment’ relates to.
- ii) In respect of Paragraph 102:
  - Bullet Point 1 – Previously emphasis was on the protection of designated areas. It appears that this statement reduces the protection.
  - Bullet Point 6 – It is considered that the environmental criteria should be expanded, including an explanation of natural and built environment that is not included within the Glossary. The criteria can be cultural and heritage assets, landscape, biodiversity, recreation,

the water environment and existing properties. Furthermore, the considerations do not include transport and its impacts.

iii) In respect of Paragraph 103

- Bullet Point 1 – The increasing emphasis upon the economic benefits of minerals extraction should be reconsidered and a more balanced approach should be taken.
- Bullet Point 3 – The definition of noise sensitive properties is not provided, either within the text or the Glossary, which in itself should be expanded.
- Bullet Point 7 – This point lacks detail. It should include other sites in designated areas if that is where building stone is to be found, not just relic quarries.

iv) In Paragraph 106 the term ‘coal’ should be replaced with opencast coal.

Overall, It is considered that the section provides little help for new practitioners on how to develop policy and, moreover, determine planning applications.

The policy relies heavily upon Council policy making, but as minerals can only be worked where they are found, the inconsistencies of local approaches may not impact on growth and relationships with other local authorities. It is not clear which organisation, perhaps the British Geological Survey, is going to take ownership of any best practice or how the work of the Regional Aggregates Working Party (RAWP) will be supported and funded. There is no support or encouragement for industry/MPA/LA partnership data sharing. Indeed, there is no explanation of who the groups involved are and their relationships within this document.

Landbanking has become more flexible as the limits for some minerals have been lowered. This will impact upon the operator, and the Council, who will have to justify higher and lower limits in those specific circumstances.

The NPPF approach does not promote sustainability as effectively as MPS1. preferring to concentrate on the need to supply minerals, whilst encouraging recycling ( on the side). In addition, aftercare is an integral part of minerals operations and there is not mention within the Glossary.

Overall, the minerals section is woefully short of context and approach to minerals planning. There is a raft of fundamental information and best practice that will be abandoned in the interests of brevity. The new practitioner will be lost without detail of the nuances and unique contexts, consideration and approaches to different minerals extraction, working and restoration. Minerals planning is complex, perhaps more so than any other aspect of development planning.

The NPPF lacks any acknowledgement and support for the good work of community/industry liaison. The need for such arrangements should be seen arising in the section regarding determining planning applications. It fails to recognise the relationship between minerals and waste management and



provides no information and advice in respect of Reviews of Old Minerals Permissions (ROMPs) and Reviews.

In addition to the above, there are some omissions from the Glossary, which would have been useful: Reclamation, Restoration, Remediation, Aftercare, Landbank, Minerals Safeguarding Area, Regional Aggregate Working Party (RAWP), Relic Quarry, and Aggregate.

**Q10a: The policies on housing will enable communities to deliver a wide choice of high quality homes, in the right location, to meet demand.**

**Response:**

The Council **disagrees** with this statement.

- i) With reference to Paragraph 109 Bullet Point 2 – It is very important that the meaning of this point is clarified. Does it mean one or more of the following?
- That the overall housing target for each local authority should be increased by 20%; or
  - That when assessing whether a local authority has a 5-year supply, the assessment should now be does it have a 6-year supply (i.e. 5-years + 20%) over 5 years; or
  - That the housing targets remains as determined by housing need and demand through the plan process but that the local plan authority is required to plan a rolling supply of enough deliverable sites to deliver an additional 20% of housing as a contingency.

Paragraph 109, Bullet point 2 and footnote – Clearly a site identified for development in a plan must be viable to enable development to take place. However, Local Authorities are not in a position to bear the unmet infrastructure costs of developments and this will have a significant impact on infrastructure planning and delivery.

**Q11a: The policy on planning for schools takes the right approach.**

**Response:**

The Council **neither agrees of disagrees** with this statement and has no further comments to make.

**Q12a: The policy on planning and design is appropriate and useful.**

**Response:**

The Council **disagrees** with this statement.

Paragraphs 117, 118 and 119 – These statements are high level palliatives but realistically the implication of the terms innovation, originality or initiatives are that developers should be free from control over design.

**Q13a: The policy on planning and the Green Belt gives a strong clear message on Green Belt protection.**

**Response:**

The Council **neither agrees or disagrees** with this statement but would consider that the protection given to Green Belt should be extended to consider the protection of areas such as Strategic Gaps and Green Wedge in order to reflect the important function of openness and to prevent coalescence.

**Q14 a: The policy relating to climate change takes the right approach.**

**Response:**

The Council **disagrees** with this statement.

It is considered that whilst this section more generally takes the right approach to climate change, there are concerns with regard to flooding and climate change. The Draft NPPF applies the same broad approach to flood risk management and developments as PPS25 but with considerably less detail. The Draft NPPF does not carry forward Annex D, which sets out the Sequential Test and Exception Test in detail. Whilst this could be simplified, it is essential that there is guidance on the application of these tests, including the tables detailing the definition of the different flood zones, setting out flood risk vulnerability classification and setting out flood risk vulnerability and flood zone compatibility are still available.

The role of climate change in increasing flood risk in the long-term is not dealt with adequately. Managing the consequences of this is a major challenge for Local Planning Authorities and emergency planners and it needs to be fully integrated with the application of the Sequential Test now. This is particularly the case given that the funding available to the Environment Agency for flood risk mitigation is being cut.

Paragraph 158 states that applications for minor development and changes of use should not be subject to the Sequential or Exception Tests. Clarification is required as to how minor development is defined.

**Q14c: The policy on renewable energy will support the delivery of renewable and low carbon energy.**

**Response:**

The Council **agrees** with this statement. The policy on renewable and low carbon energy requires a positive strategy to promote energy from these sources, which will support their delivery.

**Q14e: The draft Framework sets out clear and workable proposals for plan making and development management for renewable and low**

**carbon energy, including the test for developments outside of opportunity areas identified by Local Authorities.**

**Response:**

The Council **disagrees** with this statement.

In respect of Paragraphs 152 and 153, it is considered that further guidance should be given on what criteria should be used for determining applications that are not related to wind energy and where the LPA has decided not to identify areas of opportunity for renewable and low carbon energy.

**Q14g: The policy on flooding and coastal change provides the right level of protection.**

**Response:**

The Council **disagrees** with this statement. *These comments have been made to Q14 a: 'The policy relating to climate change takes the right approach', but are equally relevant here.*

The Draft NPPF applies the same broad approach to flood risk management and developments as PPS25 but with considerably less detail. The Draft NPPF does not carry forward Annex D, which sets out the Sequential Test and Exception Test in detail. Whilst this could be simplified, it is essential that there is guidance on the application of these tests, including the tables detailing the definition of the different flood zones, setting out flood risk vulnerability classification and setting out flood risk vulnerability and flood zone compatibility are still available.

The role of climate change in increasing flood risk in the long-term is not dealt with adequately. Managing the consequences of this is a major challenge for Local Planning Authorities and emergency planners and it needs to be fully integrated with the application of the Sequential Test now. This is particularly the case given that the funding available to the Environment Agency for flood risk mitigation is being cut.

Paragraph 158 – This states that applications for minor development and changes of use should not be subject to the Sequential or Exception Tests. Clarification is required as to how minor development is defined.

**Q15a: Policy relating to the natural and local environment provides the appropriate framework to protect and enhance the environment.**

**Response:**

The Council **disagrees** with this statement. There appears to be conflict between protecting the natural environment and the high priority afforded to 'planning for prosperity' within the definition of sustainable development.

- i) In respect of Paragraphs 164 and 167: Whilst Paragraph 164 discusses the conservation and enhancement of protecting valued landscapes. There appears to be no discussion of National Character Areas or Local Character

Assessments within Paragraph 167; it is therefore unclear what weight these are to be afforded, if any.

- ii) Paragraph 167: It is surprising that Green Infrastructure is not given a higher status within the NPPF as was proposed through the 'Consultation Paper on a new Planning Policy Statement: Planning for a Natural and Healthy Environment'. The only reference to Green Infrastructure within the Natural Environment section of the NPPF is within Paragraph 167 and this appears to be an afterthought. There is only one other reference to Green Infrastructure within the NPPF.
- iii) In respect of Paragraph 169:
  - Bullet Point 1 -This statement introduces a new concept that has still not been agreed by Parliament – “ or, as a last resort, compensated for”. This runs completely counter to both English and European ecological legislation.
  - Bullet Point 5 – The Council supports the clarification that, as a matter of policy, potential Special Protection Areas, possible Special Areas of Conservation and listed or proposed Ramsar sites are given the same protection as European sites.
- iv) The statement made in Paragraph 172 fails to clarify that the impact of the use will need to be assessed in relation to the reliability of the process and the impact of abnormal emissions as part of the planning process.
- iv) In Paragraph 173:
  - Bullet Point 1 – There are concerns over this statement as it is not clear where the guidance on acceptable noise levels (exposure) within PPG24: Planning and Noise will be held.
  - Bullet Point 2 – The statement does not make clear whether this is an acceptable minimum in the opinion of the Local Planning Authority or a minimum achievable but above the acceptable minimum. It should be defined as an acceptable minimum.

**Q16a: This policy provides the right level of protection for heritage assets.**

**Response:**

The Council **disagrees** with this statement as there appears to be conflict between protecting the historic environment and the high priority afforded to 'planning for prosperity' within the definition of sustainable development.

In addition, the NPPF seeks to condense policies identified within Planning Policy Statement 5 Planning for the Historic Environment (PPS5). Whilst this may seem justifiable there is concern that detail and guidance may be lost which would assist Development Management in the determination of applications. Policy HE1 and the Plan-making policies from PPS5 have been omitted from the heritage section and are incorporated, in part, in other sections of the Framework (policy HE5 has also been deleted). Whilst in certain circumstances this is appropriate other sections of the

NPPF have maintained plan-making policies and there is concern why this is the case and also that detail will be lost.

Paragraph 183 of the NPPF focuses upon the proposals affecting heritage assets. It is unclear if this includes the 'setting' of heritage assets, which should also be given protection.

**Q17A: Is the impact assessment a fair and reasonable representation of the costs, benefits and impacts of introducing the Framework?**

**Response:**

The Council has provided responses to many of the more detailed questions relating to the Impact Assessment.

**Q18: Do you have views on the consistency of the draft Framework with the draft planning policy for traveller sites, or any other comments about the Government's plans to incorporate planning policy on traveller sites into the final National Planning Policy Framework?**

**Response:**

It is considered that the two documents are broadly consistent. However, one of the "core planning principles" in the draft Framework is that "planning should be genuinely plan-led". There is a clear tension between this and the suggestion in the Framework that "six months is the right time local planning authorities should be given to put in place their five-year land supply before the consequences of not having done so come into force" as the absolute minimum required for a DPD to do this is 3 years.

The provision of a separate Planning Policy Statement on Travellers would be inconsistent with the intention to simplify national planning policy and to abolish all existing Planning Policy Guidance, Planning Policy Statements, Minerals Planning Guidance and Mineral Planning Statements, with the exception, in the interim, of Planning Policy Statement 10 on Waste. Given that the draft planning policy on Traveller sites includes the general principle of aligning planning policy on Traveller sites more closely with that for other forms of housing, it would seem logical that it is incorporated in the draft Framework.

**Additional Comments on the NPPF:**

The consultation document does not include questions that relate specifically to the section on Sustainable Communities, but the Council does have comments to make on the text within these paragraphs.

i) At Paragraph 126:

- Bullet Point 1 – While Local Authorities support appropriate mixed use developments, past experience has demonstrated that it is usually the provision of key facilities, such as schools and shops, that developers are reluctant to fund or make land available to achieve. Equally the

revenue costs of such community facilities often threatens the potential of delivery.

- Bullet Point 2 – Clarification should be given on the definition of “unnecessary” and on how services and facilities are to be safeguarded, particularly as Local Authorities have many demands on their limited and reducing finances, which may impact upon community services.

- ii) In Paragraph 128 there seems to be some confusion between the relationship of the evidence base and policies. In addition it is unclear where the guidance from Planning Policy Guidance 17 Planning for Open Space, Sport and Recreation will be contained to advise how such assessments are to be undertaken and policies developed.

## **Questions Relating to the Impact Assessment.**

### **QB2.1: Do you think the impact assessment presents a fair representation of the costs and benefits of the policy change?**

The impact assessment does not identify any negative aspects of its policy other than CO<sub>2</sub> emissions. The assessment takes a one-sided view of the policy impacts and does not take account of the time the Council will have to spend monitoring the “relative supply and demand of/ for office space in different locations”. This will involve significant cost implications for something not set out in the NPPF. In addition it does not look at the congestion implications and the impact this will have on the public sector, business in terms of lost efficiency and the community in terms of quality of life.

### **QB2.2: Is 10 years the right time horizon for assessing impacts? Do you think the impact assessment presents a fair representation of the costs and benefits of the policy change?**

The proposed extension to 10-years could create a disproportionate requirement which will be an unnecessary burden on businesses and local authorities. A sliding scale approach should be adopted which provides scope to assess impacts proportionately. Furthermore, the 10-year assessment could allow a development which would have an unacceptable impact against a 5-year assessment, because of expenditure growth in the intervening period.

### **QB2.5: Do you think the impact assessment presents a fair representation of the costs and benefits of the policy changes on minerals?**

#### **Response:**

The impact assessment seems a fair assessment of the costs and benefits of the policy changes on minerals where it relates to land banks. It does seem a rather cursory assessment with little appreciation of the resource implications for justifying other land bank requirements. Peat policy is a matter of national policy.

### **QB3.1: What will the impact of removing the national target for brownfield development have on the housing land supply in your area? Are you minded to change your approach?**

#### **Response:**

The impact of this change would depend greatly on the amount of brownfield land available with a local authority's area and how easily it can be delivered. Where availability is constrained or brownfield sites are costly to deliver then the removal of the national brownfield target will give a welcome flexibility to local authorities about where they can allocate housing sites.

The Borough contains significant amounts of brownfield land, which it was intended to allocate for housing development in line with the national target. However, since the economic recession and the reduction in the availability of public funding to support the delivery of these sites, the Council has had to accept that their delivery in current economic circumstances is not likely. So whilst they remain a priority for

development should an appropriate developer or unexpected funding be made available, in order to meet its housing targets the Council has decided to undertake a partial review of its Core Strategy although it was only adopted in March 2010, so that it can ensure a supply of deliverable sites later in the plan period. This review, which is just at issues and options stage, is investigating the possibility of extensive Greenfield allocations, which would not have supported the delivery of the national brownfield target were it still in existence. Its abolition has therefore offered considerable freedom and flexibility to the authority to resolve an issue it confronted without being contrary to national planning policy.

**QB3.2 Will the requirement to identify 20% additional land for housing be achievable? And what additional resources will be incurred identifying it? Will this requirement help the delivery of homes?**

**Response:**

The Authority currently has a 5-year supply of housing sites, however the identification of an additional 20% may prove problematic; the Council has not yet undertaken that exercise so cannot provide a definitive answer. To a great extent the delivery of homes in this area is more a factor of wider economic circumstances for example job insecurity and, for those with secure employment, the lack of availability of mortgages, which means that developers are finding it difficult to build out those sites they currently have rather than a lack of competition and choice in allocated housing sites.

It would be interesting to monitor if less land has come forward than Local Planning Authorities have identified would. Allowing an additional 20% could be assumed as an allowance to cover the over assumptions of LPAs and sites which have not materialised.'

**QB3.3 Will you change your local affordable housing policy in the light of the proposed changes?**

**Response:**

In support of the Core Strategy Policy on affordable housing the Council commissioned a report entitled 'Economic Viability of Affordable Housing Requirements'. Whilst not reaching a clear-cut conclusion the report supported the council's approach to require an affordable housing requirement on schemes of 15 dwellings or more and on development sites of 0.5 ha or more. The following provides a summary of the reasoning for this:

1. Assessment was undertaken on 5 beacon sites with a capacity of 15 dwellings or less (0.4ha or less).
2. No consistent pattern of results from these small sites resulting in no simple conclusion about the viability of smaller as compared to larger sites.
3. Noted a number of other aspects of the issues relating to smaller sites that would affect the administration of the policy and in turn, may influence the willingness of developers to come forward with development proposals for smaller sites.

The viability performance of smaller sites is much more variable than for larger sites. This is not surprising: the options for smaller sites are more constrained



and specific site issues may increase costs (although we have not factored this into the appraisal). Problems about the viability of affordable housing provision can therefore be expected on a proportion of smaller sites.

- The impact of affordable housing requirement can change their viability at the size thresholds where the requirements increase.
  - For small sites, an increase in affordable housing requirements from 1 to 2, or 2 to 3 can have a significant impact on viability.
  - It is also relevant to note that the administrative work involved in delivering one or two affordable dwellings on small sites could be substantial for the developer, the RSL and the Council.
  - For sites that a developer may already consider marginal, the requirement may deter schemes from progressing.
4. There is no clear-cut conclusion on this issue. Our opinion is that there is not a strong argument for reducing the threshold below the national indicative figure (in PPS3) of 15 dwellings. We base this opinion on our assessment of the practical issues arising for smaller sites and the likely disincentive to new development this would cause.

The findings of this work would mean that the council would be unlikely to alter the local threshold.

**QB3.4 Will you change your approach to the delivery off affordable housing in the rural areas of the Borough in the light of the proposed changes?**

Again it is too early to say. The Council currently has a rural exception site policy in its adopted Core Strategy. The Borough is not deeply rural and its rural housing need for affordable is small. The Council is currently undertaking a partial review of its Core Strategy in relation to where housing should be located and, in the light of the introduction of neighbourhood planning and the encouragement it gives to “neighbourhoods” to accept modest additional development, is testing the appetite of its rural communities to accept more housing development in the future via an initial issues and options stage.

**QB4.4: How will your approach to decentralised energy change as a result of this policy change?**

**Response:**

The Council does not consider that its approach will change significantly.