

EXMOOR NATIONAL PARK AUTHORITY

1 MAY 2018

DRAFT REVISED NATIONAL PLANNING POLICY FRAMEWORK AND ASSOCIATED DOCUMENTS

Report of the Head of Strategy and Performance

Purpose of the report: To inform Members of proposed changes to national planning policy, principally to the National Planning Policy Framework (NPPF). AND To approve this report as the basis for the Authority's response to the proposed changes to the NPPF and as a set of comments for input into a separate consultation response to be sent on behalf of National Parks England (NPE).

RECOMMENDATIONS: The Authority is recommended to:

- (1) NOTE the changes proposed to the NPPF.
- (2) ENDORSE the comments in this report as the Authority's response to the proposed changes to the NPPF and DELEGATE authority to Officers to make minor amendments as appropriate.
- (3) DELEGATE to Officers to co-ordinate a combined National Parks/The Broads Authorities response on behalf of National Parks England, in light of comments from other National Parks, and agree to its submission to the Ministry of Communities and Local Government.

Authority Priority: *Achieve* by providing core services; getting best value from our resources, and improving our performance

Legal and Equality Implications: Section 67 of the Environment Act 1995 provides that the National Park Authority shall be the local planning authority. Section 65(4) Environment Act 1995 – provides powers to the National Park Authority to “*do anything which in the opinion of the Authority, is calculated to facilitate, or is conducive or incidental to-*

(a) the accomplishment of the purposes mentioned in s. 65 (1) [National Park purposes]

(b) the carrying out of any functions conferred on it by virtue of any other enactment.”

The equality impact of the recommendation(s) of this report has been assessed as follows: There are no equality impact considerations.

Consideration has been given to the provisions of the Human Rights Act 1998 and an assessment of the implications of the recommendation(s) of this report is as follows: There are no human rights implications

Financial and Risk Implications: There are no financial implications

1. INTRODUCTION/BACKGROUND

- 1.1 The National Planning Policy Framework (NPPF) was first introduced in 2012 bringing together planning policy statements, circulars and guidance into a single document. It sets out the Government's planning policies for England and how these are expected to be applied, and forms a significant material consideration in relation to the Authority's plan making and development management functions.
- 1.2 The draft revised version of the NPPF was published for consultation on 9 March and can be viewed at <https://www.gov.uk/government/consultations/draft-revised-national-planning-policy-framework> The Government has emphasised that there is a significant level of continuity between the existing and proposed NPPF. The proposed changes take forward and consolidate the results of previous policy consultations, principally February 2017's Housing White Paper 'Fixing Our Broken Housing Market' and September 2017's 'Planning for the Right Homes in the Right Places', as well as numerous Ministerial Written Statements.
- 1.2 A number of planning policy or guidance documents have also been released by Government during the same week. Some are subject to consultation (including the NPPF changes) and others to implement policy or procedural changes suggested at the time the Housing White Paper. These include:

For consultation:

- Draft changes to the NPPF;
- Guidance on development contributions and Community Infrastructure Levy (CIL);
- Guidance on assessing viability of new development

Published (not for consultation):

- Changes to National Planning Policy Guidance, covering plan viability, the five year land supply and housing delivery tests, housing need assessments, neighbourhood planning, plan-making and build to rent.
- Guidance on applying the Housing Delivery Test
- Changes to the General Development Procedure Order which allows some forms of permitted development where planning permission is not required. These are not subject to consultation. The three main changes are:
 - A change to the size of a new agricultural building which can be built without a need for permission – this is raised from 465 square metres to 1,000 square metres;
 - A change to the number of new homes that can be converted from existing agricultural buildings on a farm without permission, from a maximum of three to five new dwellings. National Parks and the Broads Authority areas do however remain exempt from this permitted development right;

- 1.3 This report highlights the main areas where changes are proposed that are relevant to Exmoor National Park and forms the Authority response and input to a co-ordinated response from NPE. The closing date for comments is 10 May. The other two documents offered for consultation are the Community Infrastructure Levy Amendments and Development Contributions and Assessing Viability of New Development.

2 Changes to the National Planning Policy Framework

- 2.1 The NPPF has been reformatted so much of the guidance on plan making and decision taking has now been removed and will be placed within National Planning Practice Guidance, and the order of chapters has also changed. The bulk of the proposed changes are aimed at boosting and varying overall housing supply. In particular, a new 'standardised method' of calculating housing need and a new housing delivery test which would render current policies out date if housing completions fall below annual targets over a three year average past period are set out. These were subject to past consultation and the National Park and Broads Authorities requested that neither policy should apply in their area, and the new draft proposals confirm that is the case.
- 2.2 This report contains the main policy issues requiring comment from the Authority and are listed in chapter order. **Annex 1** contains a summary of the main areas of proposed changes that are most relevant to the National Park, for information.

3 The Authority Response

Chapter 2 Achieving Sustainable Development

- 3.1 A new paragraph 11 is to replace current paragraph 14. These paragraphs provide the overarching policy relating to how the presumption in favour of sustainable development will be applied. Three main amendments are being made, all of which are **supported**:
- 3.2 Firstly, paragraph 11 now uses stronger language and directly states that development should be refused where there is a strong reason for restricting the overall scale, type or distribution of development and relate to protected areas or assets of particular importance including the National Parks and the Broads. This delivers the White Paper's statement that "the Government proposes to clarify which national policies it regards as providing a strong reason to restrict development when preparing plans" Previously the paragraph stated that development should be restricted.
- 3.3 Secondly, footnote 7 which lists those sites which are protected and therefore have a strong reason for restricting development now includes Heritage Coasts, irreplaceable habitats including ancient woodland, aged or veteran trees.
- 3.4 Thirdly the paragraphs are rearranged so that the test of where policies should restrict development or where permission should not be granted are placed above the paragraphs relating to situations where the adverse impacts of granting permission could warrant approval where benefits clearly outweigh the adverse impacts. This delivers the White Paper's statement that the paragraph should be "reordered to reflect what decision-makers are likely to do in practice: first, consider whether there are any national policies that justify restricting development, and then whether any adverse impacts would 'significantly and demonstrably' outweigh the benefits."

Chapter 5 Delivering a sufficient supply of homes

- 3.5 Paragraph 61 introduces a new standard method for the calculation of local housing need. The details of the standard method are set out in draft revised national planning guidance published alongside the Framework (Housing Delivery Test Draft Measurement Rule Book) where it provides that this standardised method will not apply to the National Park and Broads Authorities and this is

strongly **supported** by the Authority. However, the Authority **recommends** that this should be clearly stated preferably in the NPPF under paragraph 61 or otherwise in the PPG. Paragraph 61 of the proposed NPPF provides ‘In determining the minimum number of homes needed, strategic plans should be based upon a local housing need assessment, conducted using the standard method in national planning guidance – unless there are exceptional circumstances that justify an alternative approach which also reflects current and future demographic trends and market signals.’ It should be noted that although National Park Authorities are not expected to follow the standardised method for housing delivery they are still expected to generate their own housing need figure.

- 3.6 The Authority supports paragraph 62 which provides for the identification of the size, type and tenure of homes required for different groups of the community, including those who rent their homes, those who require affordable housing and those who wish to build their own house. This provides for a range of housing needs rather than the current provision for ‘widening opportunities for home ownership’ in the existing NPPF paragraph 50. However, the Authority requests that the reference to creating ‘sustainable, inclusive and mixed communities’ be retained to provide sustainable and vibrant rural areas.
- 3.7 The Authority **supports** the exemption, on rural exception sites, from the requirement provided in paragraph 65 for 10% affordable home ownership on major housing development sites. (Please also see paragraph 3.17 for suggestions on major development).
- 3.8 Paragraph 67 provides that the local planning authority should provide an indicative housing figure for a neighbourhood planning area, if a requirement figure has not already been provided, and if the Authority is requested to do so by the neighbourhood planning body. In such instances, given that National Park and the Broads Authorities are not required to follow the Housing Delivery Test, the ENPA **suggests** that the Planning Practice Guidance (PPG) specifies that these Authorities undertake an approach that is consistent with that which has been used to derive the housing need figure for the planning authority area.
- 3.9 Paragraph 72 introduces a requirement on Local Authorities to support the development of entry level exception sites for first time buyers (or those looking to rent their first home), unless the need for such homes is already being met within the authority’s area. It provides that these sites should be outside existing settlements, on land, which is not already allocated for housing; and should:
- a) comprise a high proportion of entry level homes that will be offered for discounted sale or for affordable rent; and
 - b) be adjacent to existing settlements, proportionate in size to them, not compromise the protection given to areas or assets of particular importance in this Framework (This includes National Parks, under footnote 7), and comply with any local design policies and standards.
- 3.10 Further detail is required on how entry level homes relate to the current definition of starter homes, and how these relate to and/or affect the delivery of rural exception sites. This new tier of sites is likely to conflict with the ability to require affordable housing including genuinely affordable rented housing through a rural exception site approach as they would compete directly with rural exception sites outside settlements. The ENPA **requests** that entry level homes should therefore not apply in designated rural areas.

- 3.11 Paragraph 78 provides that ‘to help ensure that proposals for housing development are implemented in a timely manner, local planning authorities should consider imposing a planning condition providing that development must begin within a timescale shorter than the relevant default period, where this would expedite the development without threatening its deliverability or viability. The ENPA **supports** this approach, which will help to ensure timely development and delivery of sites.

Chapter 6 Building a Strong, Competitive Economy

- 3.12 Paragraph 22 of the existing NPPF has been deleted. This provides that planning policies should avoid the long term protection of sites allocated for employment use where there is no reasonable prospect of a site being used for that purpose. This paragraph indirectly provides safeguarding of employment sites where there is a reasonable prospect of the site being used for that purpose. This is important for Exmoor National Park, where the Local Plan policy seeks to maintain the existing stock of employment sites, and does not allocate new sites, given the restrictions and limitations of new sites in the National Park for this purpose. The ENPA therefore **requests** that paragraph 22 is retained or preferably amended to provide for the safeguarding of existing employment land in restricted areas of development as listed under footnote 7.

Chapter 11 Making Effective Use of Land

- 3.13 The ENPA welcomes and **supports** the new section on making effective use of land, which provides that planning policies and decisions should promote effective use of land in meeting the need for homes and other uses, and efficient use of land through appropriate densities whilst securing well-designed, attractive places.

Chapter 15 Conserving and Enhancing the Natural Environment

- 3.14 The ENPA notes that the 25 Year Environment Plan seeks to embed a ‘net environmental gain’ principle for development to deliver environmental improvements locally and nationally. It notes that current policy is that the planning system should provide biodiversity net gains where possible. The Plan seeks to explore strengthening this requirement for planning authorities to ensure environmental net gains across their areas. The Plan provides that it will consult on making this mandatory – including any exemptions that may be necessary. The Authority note that the proposed NPPF has not taken the opportunity to strengthen the requirement for planning authorities to ensure environmental gains across all areas and the ENPA **suggests** that the NPPF is amended accordingly. Alternatively, the National Park and Broads Authorities provide opportunities to test this approach and explore options for delivery and outcomes.
- 3.15 The Authority **supports** the strengthening of protection given to ancient woodland and other irreplaceable habitats in paragraph 173c of the revised Framework which makes clear that development resulting in their loss or deterioration should be wholly exceptional, and maintains a high level of protection for individual aged or veteran trees found outside these areas.
- 3.16 Paragraph 170 sets the overall policy on development in National Parks and the Broads. The revised wording includes an additional sentence providing that ‘the scale and extent of development within these designated areas should be limited. The Authority welcomes and **supports** this helpful addition, which is in accordance with National Park purposes. However, the Authority is very

concerned about the proposed removal of wording in the existing paragraph 115, which provides that, National Parks, the Broads and Areas of Outstanding Natural Beauty ‘...have the highest status of protection in relation to landscape and scenic beauty..’ The ENPA **requests** that this wording is retained in order to protect National Parks in accordance with National Park statutory purposes.

- 3.17 With regard to major development as provided for in paragraph 170, the Glossary proposes a definition in accordance with the Town and Country (Development Management Procedure) Planning Order 2015, which for example defines major development comprising of 10 or more homes. This new definition could apply to National Parks, which could undermine the delivery of affordable homes.

Clarification is sought and it is **suggested** that a distinction needs to be made between major development in National Parks, which has been defined by the National Parks Circular and subsequent legal opinion¹, and major development in the GDPO.

The Glossary

- 3.18 The ENPA **supports** the proposed definition in the Glossary for ‘essential local workers’ as public sector employees who provide frontline services in areas including health, education and community safety and can include NHS staff, teachers, police, firefighters and military personnel, social care and childcare workers. The Exmoor Local Plan provides policies to help meet affordable housing needs of key workers. The definition will be useful in defining key workers on Exmoor.

4 Next Steps

- 4.1 The policies in the Framework are material considerations, which should be taken into account in dealing with applications from the day of its publication. The Exmoor National Park Local Plan will need to be reviewed to assess compatibility with the updated NPPF and may need revising as a result to reflect the policy changes. This will be progressed as quickly as possible following publication of the final NPPF.
- 4.2 Paragraph 23 requires that Local Plan policies are reviewed to assess whether they need updating at least once every five years, and should then be updated as necessary. Reviews at least every five years are a legal requirement for all Local Plans. It will therefore be necessary to complete a review of the Exmoor National Park Local Plan by July 2022.

Author Jo Symons
Policy and Community Manager
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Background papers on which this report, or an important part of it are based, constitute the list of background papers required by Section 100 D (1) of the Local Government Act 1972 to be open to members of the public comprise:

¹ See legal opinion for the South Downs National Park - <https://www.southdowns.gov.uk/wp-content/uploads/2015/01/Guidelines-on-Significance-for-SDNP-Planning-Applications-%E2%80%93-NPPF-Complaint-July-2014.pdf>

NPPF consultation proposals:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/685288/NPPF_Consultation.pdf

NPPF draft text for consultation:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/685289/Draft_revised_National_Planning_Policy_Framework.pdf

Developer contributions:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/685428/Developer_Contributions_Consultation.pdf

Draft documents

Viability:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/685291/Draft_viability_guidance.pdf

Housing Delivery Test:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/685292/Housing_Delivery_Test_Measurement_Rule_Book.pdf

Evidence

Planning obligations and Community Infrastructure Levy

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/685301/Section_106_and_CIL_research_report.pdf

Previous Consultations

2017's Housing White Paper '*Fixing Our Broken Housing Market*' (2017)

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/590464/Fixing_our_broken_housing_market_-_print_ready_version.pdf

'*Planning for the Right Homes in the Right Places*' (September 2017)

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/652888/Planning_for_Homes_Consultation_Document.pdf

Annex 1 Summary of NPPF Amendments

Chapter 2 Achieving Sustainable Development

- Reordering of wording on the presumption in favour of sustainable development (paragraph 11) to reflect the way that plan and decision-making are approached in practice.
- An expectation for objectively assessed needs to be accommodated unless there are strong reasons not to, including any unmet needs from neighbouring areas.
- Amendment of footnote 7 which provides a specific reason for restricting development, and includes National Parks. Proposed to be changed to a defined list and includes Heritage Coasts, Ancient Woodland and aged or veteran trees. Does not preclude other policies being used to limit development where the presumption applies, if the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits.

Chapter 3 Plan making

- Plans must identify strategic priorities and policies (with neighbourhood plans expected to in general conformity with strategic policies only.)
- Amendments are made to the tests for a 'sound' plan, to make clear that it should set out 'an' appropriate strategy rather than 'the most appropriate strategy' (to avoid the need for disproportionate work to demonstrate that a strategy is optimal);
- Authorities are to review plan policies every five years following the date of adoption, with updates, if necessary, to reflect changing circumstances – this is already set out in statute;
- NPPF now states that to meet the test of soundness authorities, when preparing plans, local authorities will need to prepare and maintain a statement of common ground, as evidence (where appropriate) of the statutory duty to cooperate and an amendment of the 'positively prepared' soundness test to emphasise the role of plans in meeting objectively assessed needs for housing;

Chapter 4 Decision making

- New policy makes clear that where a proposed development accords with all relevant policies in the plan there is no need for a viability assessment to accompany the planning application.

Chapter 5 Delivering a wide choice of high quality homes

- Paragraph 61 introduces a new standard method for the calculation of local housing need. The details of the standard method are set out in draft revised national planning guidance published alongside the Framework. This standardised method will not apply to the National Park and Broads Authorities, however these authorities are still expected to generate their own housing need figure.
- Paragraph 65 implements the housing White Paper proposal that at least 10% of homes on major sites should be available for affordable home ownership, with certain exemptions;
- Paragraphs 66-67 introduces an expectation that local authorities should provide a housing requirement figure for designated neighbourhood areas;

- Paragraphs 74(c), 75 and 77 set out the policy consequences of the new Housing Delivery Test. The presumption in favour of sustainable development will apply where delivery is below 75% of the authority's housing requirement. From 2020 this may include linking payment of the new homes bonus (which National Parks and the Broads Authorities do not receive) to the housing delivery test or the standard approach to local housing need;
- Paragraph 76 takes forward the Housing White Paper proposal that the 5 year land supply position should be capable of being agreed for a one year period. The policy proposes that this should be demonstrated either through a recently adopted plan, or through a subsequent annual position statement;
- Paragraph 78 provides that authorities should consider imposing a planning condition to bring forward development within two years, except where a shorter timescale could hinder the viability or deliverability of a scheme. The revised text also proposes these policy changes;
- Paragraph 72 allows for the development of exception sites to provide entry-level homes suitable for first-time buyers, where a local need is identified.

Chapter 6. Building a strong, competitive economy

- The rural economy section in the existing Framework has been brought forward within this chapter, with new policy at paragraph 85 on the potential need for planning policies and decisions to accommodate sites for local business and community needs outside existing settlements, in ways, which minimise the impact of such sites, and exploits opportunities to make such locations more sustainable.

Chapter 7. Ensuring the vitality of town centres

- Paragraph 86d clarifies that in allocating sites to meet the need for town centre uses, policies should look at least ten years ahead. Changes have also been made to policy on planning applications for town centre uses. Paragraph 87 amends the 'sequential approach' to planning applications, so that out of centre sites should be considered only if suitable town centre or edge of centre sites are unavailable or not expected to become available within a reasonable period.

Chapter 8. Promoting healthy and safe communities

- Paragraph 92 gives additional recognition to the role that planning can play in promoting social interaction and healthy lifestyles.

Chapter 9. Promoting sustainable transport

- A new introduction explains the variety of ways in which transport should be considered as part of the planning process, so that transport issues are recognised and addressed as fully as possible;
- Policy on assessing the transport impact of proposals (now at paragraphs 108-110) has been amended to refer to highway safety as well as capacity and congestion in order to make it clear that we expect that designs should prioritise pedestrian and cycle movements, followed by access to high quality public transport (so far as possible) as well as to reflect the importance of creating well-designed places.

Chapter 10. Supporting high quality communications

- Paragraph 112 indicates that plan policies should set out expectations in relation to the delivery of high quality digital infrastructure, which provides access to services from a range of providers.

Chapter 11. Making effective use of land

- Plans are expected to have a clear strategy for using land (paragraph 117) and to make more intensive use of existing land and buildings (paragraph 118d-e);
- Great weight should be given to the value of using suitable brownfield land within settlements for homes (paragraph 118c);
- There should be more effective use of empty space above shops;
- Land should be reallocated land where there is no reasonable prospect of an application coming forward for the allocated use.

Chapter 12. Achieving well-designed places

- Paragraphs 124-125 reflect the White Paper proposals that plans should, at the most appropriate level, set out a clear design vision and expectations, supported by visual tools such as design guides and codes;
- Additional emphasis has been placed on the importance of pre-application discussions in securing good design (paragraph 127);
- Paragraph 130 has been revised to make clear that “outstanding or innovative designs” should not be given great weight where they are in conflict with local design policies, or would not be sensitive to their surroundings.

Chapter 13. Protecting the Green Belt

(not relevant in the National Park)

- Paragraphs 136-137 implement the housing White Paper proposals that certain criteria should be satisfied before ‘exceptional circumstances’ are used to change Green Belt boundaries, and that where Green Belt is released first consideration should be given to land which has been previously-developed or which is well-served by public transport;
- Paragraph 144g allows brownfield land in the Green Belt to be used for affordable housing, where there is no substantial harm to openness.

Chapter 14. Meeting the challenge of climate change, flooding and coastal change

- Text refers to the risk of overheating from rising temperatures and makes clear that planning policies should support measures to ensure the future resilience of communities and infrastructure to climate change (paragraph 148);
- The draft incorporates the Written Ministerial Statement of 18 June 2015 on wind energy development;
- The draft clarifies that plans should have regard to the cumulative impacts of flood risk, rather than just to or from individual development sites (paragraph 155); as well as policy on the exception test that may need to be applied when considering development in locations at risk of flooding (paragraphs 158-162).

Chapter 15. Conserving and enhancing the natural environment

- This chapter has been updated to align with the 25 Year Environment Plan. It includes additional policy on strengthening existing networks of habitats (paragraph 169) and taking air quality fully into account (paragraph 180), clarifies that development within National Parks and Areas of Outstanding Natural Beauty should be limited (paragraph 170); and also clarifies the implications for policy on areas defined as Heritage Coast (paragraph 171).
- Paragraph 173c of the revised Framework strengthens protection for ancient woodland and other irreplaceable habitats, by making clear that development resulting in their loss or deterioration should be wholly exceptional, and maintains a high level of protection for individual aged or veteran trees found outside these areas.

Chapter 16. Conserving and enhancing the historic environment

- Paragraph 189 has been revised to clarify that when considering the impact of a proposed development on a designated heritage asset, decision-makers should give great weight to the asset's conservation irrespective of whether the potential harm to its significance amounts to 'less than substantial harm' or 'substantial harm or total loss' of significance .

Chapter 17. Facilitating the sustainable use of minerals

- No substantive changes

Transitional arrangements and consequential changes

- Transitional arrangements are proposed which will apply the previous Framework to the examining of plans, which are submitted on or before the date, which is six months after the date of the publication of the new Framework.