

Report to: **Council**
Date: **11 February 2016**
Title: **NATIONAL PLANNING POLICY FRAMEWORK
DRAFT CONSULTATION RESPONSE**
Portfolio Area: **Place Making**

Wards Affected: **all**

Relevant Scrutiny Committee:

Urgent Decision: **N** Approval and clearance obtained: **Y**

Date next steps can be taken: **Immediately**
(e.g. referral on of recommendation or implementation of substantive decision)

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RECOMMENDATIONS:

That Council be RECOMMENDED to:-

- 1. agree the submission of the draft consultation response to the Department for Communities & Local Government (as set out at Appendix 1), subject to inclusion of any amendments agreed at the meeting; and**
- 2. delegate authority to the Lead Specialist – Place and Strategy, in consultation with the lead Executive Member, to agree the precise wording of the final submission**

1. Executive summary

The Department of Community & Local Government is consulting on proposed changes to the National Planning Policy Framework (NPPF).

These are summarised into:

- 'Broadening' the definition of Affordable Homes
- Increasing housing densities around 'Commuter Hubs' (defined as towns having a population of over 25,000 people)
- The delivery of Starter Homes
- The principle of new settlements
- Using land originally allocated for commercial uses for housing

The consultation asks a total of 23 specific questions regarding the proposed changes, although there is little detail on the exact policy wording that may emerge from the consultation.

In recent months there have been numerous changes by central government the National Planning Practice Guidance website (NPPG). This website lets Local Planning Authorities know how to interpret national planning policy.

Changes to the NPPG have, in some instances, sought to change adopted policy, or at least provide an interpretation of policy that is not entirely consistent with the NPPF. Such changes include the removal of affordable housing contributions on development schemes of 10 dwellings or less in January 2015. This change in guidance was subsequently challenged by Reading and West Berks and overturned in the High Court, the ruling concluding that policy cannot be altered or amended without amending the NPPF.

As a result, and in order to cement some of the government's policies regarding the provision of new housing, the overarching national policy document, the NPPF, is subject to amendment for the first time since being adopted in 2012.

South Hams District Council is no stranger to taking bold and innovative decisions to enable large-scale housing development, such as Sherford. But we also know the numerous constraints of our rural settlements, notably regarding infrastructure and the natural environment, and it is not the case that a nationally prescriptive response to the 'National Housing Crisis' can be applied equally in all locations.

Given these constraints officers advises caution with regard to some of the suggested amendments to the NPPF. Prioritising the quantity of new homes over considered plan-led development is not always compatible with the settlement patterns and types typical to most rural areas.

Given the flexibility to create policies that are locally appropriate, rural LPAs can make an important contribution to the number of new homes required across the country, but in a way that continues to meet the varied needs of our communities without compromising our rural settlements.

2. Background

The NPPF provides national planning policies that all LPA planning policies must conform to. The NPPF was first introduced in 2012, and following a compliance check current adopted SHDC policies are considered to be broadly consistent with the NPPF.

This is the first consultation on proposed changes to the NPPF since 2012, and it is unlikely that the opportunity to shape future national policy changes will occur again in the short-term. The deadline for comments is 22nd February 2016, and it is felt by officers that this is an opportunity to emphasise that good planning in rural areas requires flexible application of national policies, particularly in terms of delivering affordable housing.

Many of the changes proposed to the NPPF will challenge the council's ability to meet its corporate priorities, particularly with regard to provision of affordable housing within the rented sector and creating sustainable communities.

Any potential negative impacts will be felt by the communities of the South Hams, but also the council as a LPA. The proposed amendments to the NPPF will place an even greater burden on LPAs to deliver housing that may struggle to meet the varied housing needs of our communities.

3. Outcomes/outputs

The proposed submission to the consultation on behalf of SHDC is designed to make the government recognise that the approach to housebuilding needs to be more flexible in rural areas than in more built up areas.

Success would mean some caveats being written into the proposed changes to the NPPF that does not fundamentally change the definition of affordable housing, that does not require a standard delivery rate for Starter Homes across the country, and that does apply the same assumptions to alternative land-uses for brownfield land to rural areas as for urban areas.

Success in this regard will be known when the final NPPF amendments are announced by central government. The measure of this success will be any policy that requires a moderated planning approach to the delivery of new housing in rural areas.

4. Options available and consideration of risk

In terms of options, there would be little gained by not submitting a response. In submitting a response, the alternatives can be offered for consideration with success measured in the extent to which the proposed changes are amended in response to the alternatives offered.

To effectively challenge the proposed amendments, suitable alternatives need to be proposed. The draft SHDC response does include some suggested policy and procedure amendments, and challenges the assumption that a 'one size fits' response to the national housing crisis can be consistently applied across all urban and rural areas.

The credibility of the proposed SHDC response has been partially tested by sharing draft responses with Teignbridge DC, West Devon BC and some communication with Exeter City Council.

Available responses from the Chartered Institute of Housing, The Rural Housing Enabler and the Planning Officers Society have provided useful context for parts of the draft SHDC response. The proposed SHDC response is broadly in line with consensus across the housing and planning sectors, and this has been further confirmed by input from specialists with knowledge in specific areas, such as affordable housing.

5. Proposed Way Forward

Alternatives to the proposed amendments from government have been included within the SHDC response.

The alternatives proposed in the SHDC response reflect the priorities of the council, not least the continued provision of genuinely affordable housing, available in perpetuity to meet the varied housing needs of our communities.

The alternatives proposed within the SHDC response also recognise the principles of good place making, and in particular the importance of situating new housing in the right locations, and not simply as an alternative to commercial land-uses.

The biggest risk to SHDC is if the proposed changes to the NPPF are implemented without any amendment. This will have a profound impact on the ability of SHDC to manage new development in a way that is compatible with our rural settlement pattern, and is able to meet the affordable housing needs of our communities in an appropriate manner.

As SHDC move towards the adoption of a new Local Plan, opportunities to respond the revised NPPF will present themselves. However, there is a possibility that changes to national planning policy will require the LPA to write planning policies that do not comfortably meet the corporate objectives of SHDC.

6. Implications

Implications	Relevant to proposals Y/N	Details and proposed measures to address
Legal/Governance	Y	<p>There are no legal implications to the council in submitting a consultation response. There may be some implications for the council depending on what changes are made to the NPPF following this consultation.</p> <p>The potential changes to the NPPF will have an impact on SHDC policy making, due to the statutory function of the council as a Local Planning Authority.</p> <p>New Local Plan policies currently being drafted include an awareness of the proposed NPPF changes, so that a set of draft policies could be used depending on the scale of final changes to the NPPF.</p> <p>Existing evidence assessments are being extended to include potential evidence requirements around land availability for Starter Homes and brownfield etc.</p>
Financial	N	
Risk	N	<p>As described, there is no risk associated with the decision to submit a consultation response.</p> <p>There will be risks to the Council as an LPA, but these cannot be fully understood until we know how the NPPF will be amended following the consultation.</p>
Comprehensive Impact Assessment Implications		
Equality and Diversity	N	It is assumed this matter will be dealt with in government review of proposed policy changes. See also answer to Q2.
Safeguarding	N	It is assumed this matter will be dealt with in government review of proposed policy changes
Community Safety, Crime and Disorder	N	It is assumed this matter will be dealt with in government review of proposed policy changes
Health, Safety and Wellbeing	N	It is assumed this matter will be dealt with in government review of proposed policy changes

Other implications	N	Access to safe and affordable housing.
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Supporting Information

Appendices:

Appendix 1: Proposed SHDC response to the consultation below.

Background Papers:

Proposed changes to the NPPF:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/488276/151207_Consultation_document.pdf

Appendix 1: Proposed SHDC response to NPPF consultation.

Overall Comments

South Hams District Council welcomes the opportunity to comment on the proposed changes to the National Planning Policy Framework (NPPF). This consultation regarding national policy is particularly timely following a recent flurry of amendments to Planning Practice Guidance (PPG), which has occasionally resulted in ambiguity.

The challenges of providing a range of housing in sufficient quantity, and of sufficient quality, to meet the needs of our communities have been SHDC corporate priorities for a number of years. As a council we are committed to the delivery of new communities within our administrative area, and are exploring the preparation of a new Local Plan with three neighbouring planning authorities. In short, we feel that we are embracing the challenges that the 'housing crisis' has presented us with, and will continue to innovate and evolve to achieve the best outcomes for our communities.

What we feel has been missing since the NPPF came into force, is flexibility that allows LPAs in rural areas to adopt policies that are more appropriate to the landscape character and settlement types typical of the English countryside. There seems to be a prevailing wind within government policy that incentivises significant growth without allowing for flexibility in rural areas that are constrained by sensitive landscapes and rural settlement patterns.

This does not mean that we seek to absolve ourselves from playing a full part in contributing the many new homes that are needed. It is, we believe, simply unsustainable for market towns and rural villages to keep growing at a rate required by current policies, particularly in areas that have a high proportion of designated landscapes such as Areas of Outstanding Natural Beauty and National Parks of which South Hams has both.

Local Planning Authorities (LPAs) in rural areas want to provide more housing, particularly affordable housing, but many are having to do so on increasingly unfavourable sites. What LPAs like SHDC need are suitably flexible national policies that allow us to deliver a broader range of housing types, and to deliver a range of affordable homes tailored to the needs of a low pay rural economy, in addition to the Starter Homes favoured by government.

The proposed amendments to the NPPF do little address the very specific needs of rural areas. More flexibility is what we need, along with long term policy solutions to correct the systemic imbalance created by highly inflated house prices in an area with significantly lower than average earnings. Policies also need to encourage mixed economy communities with a range of employment, social and cultural facilities rather than villages that simply serve as commuter satellites for the nearby cities.

SHDC hopes that government can see why we believe that some of the proposed amendments are a poor fit for many rural areas in this country, and would welcome the opportunity to work creatively with you to develop specific policies that will help our rural areas to prosper.

Q1. Do you have any comments or suggestions about the proposal to amend the definition of affordable housing in national planning policy to include a wider range of low cost homes?

SHDC supports policy developments that help to bring forward more affordable housing.

Indeed, SHDC is well advanced in developing a range of policies that support Starter Homes and self- and custom-build housing, and that try to improve the ability of people with a local connection to access home ownership. We are also working with a range of privately funded providers in order to create innovative delivery mechanisms, including 'rent to buy' opportunities.

To that extent, we support the proposal to include a wider range of low-cost homes within the definition of affordable housing

However, the Council does not agree that this should be at the expense of removing the ability of local planning authorities to require both affordable rented accommodation and that some of the affordable housing needs to be "in perpetuity"

The evidence is that, for some time to come, rural districts will continue to experience a significant demand for rented affordable housing secured in perpetuity.

Reducing our ability to secure affordable housing in perpetuity will not enable more households in identified affordable housing need in South Hams to buy their own homes, because it will not close the affordability gap between house prices and local wages. It will simply require us to identify ever more sites to deliver the range of rental properties that many in our communities need.

Q2. Do you have any views on the implications of the proposed change to the definition of affordable housing on people with protected characteristics as defined in the Equalities Act 2010? What evidence do you have on this matter?

The proposed changes to the NPPF seem not to have been 'rural proofed' and will have an equalities impact in rural communities.

Rural communities will be negatively impacted by these proposals as there will be a decrease in genuine affordable housing supply particularly as tenure options that are already limited in rural areas will be reduced by the *Voluntary Right to Buy, the sale of vacant high value council homes*, and provision of *Starter Homes*.

People on lower quartile incomes in rural areas (and urban) still require rented tenures despite an aspiration to home ownership. Private rentals are limited in rural areas and where they exist are expensive. In coastal and national park areas, private rentals are generally in use as vacation properties. The dominant need identified through rural housing need surveys conducted is for social and affordable rent. Where there is an expressed desire for shared ownership, respondents rarely have sufficient funds for a down payment and low incomes that will not secure a mortgage. Even where

shared ownership is an option the additional costs of paying rent and a mortgage as well as maintaining a property risks putting people in arears.

It is essential that affordable housing and planning policy supports the principle of creating sustainable communities. Without a balance of tenure mix the communities will not be sustainable and lower earners will be priced out of the community.

Access to real affordable housing is equally important to support the economic activities that contribute to a thriving local rural community including rural labourers and also for more generic, non-rural employment like carers and cleaners who are low paid but provide essential services.

Q3. Do you agree with the Government's definition of commuter hub? If not, what changes do you consider are required?

It is difficult to define what could be considered as a commuter hub without understanding the local context. In South Hams, we have only two towns that currently benefit from a train station with mainline services stops.

The proposed threshold of 25,000 would mean that no town would be considered as a 'commuter hub', and be considered suitable for higher building densities.

SHDC feels that it is a little simplistic to propose increased densities without understanding the potential impacts of this approach on local infrastructure and services.

Q4. Do you have any further suggestions for proposals to support higher density development around commuter hubs through the planning system?

Not proposing to answer this.

Q5. Do you agree that the Government should not introduce a minimum level of residential densities in national policy for areas around commuter hubs? If not, why not?

Not proposing to answer this.

Q6. Do you consider that national planning policy should provide greater policy support for new settlements in meeting development needs? If not, why not?

The NPPF already provides support for new settlements in paragraph 52. Such are the common constraints shared by small settlements in rural areas we are aware of numerous Local Planning Authorities in rural areas who consider new settlements as one of the best options to deliver a large amount of new housing in a coordinated and managed way.

Simply strengthening national policy is unlikely to adequately address the multiple issues that need to be overcome to enable a project of this magnitude to come to fruition, not least mitigating the landscape and visual impact in sensitive and designated landscapes. SHDC has been committed to delivery of a new settlement for the last 15 years, but such is the complexity of such a project only this year will we see the first housing completions. Changes in policy will not change how difficult such projects are to deliver. Changes in the ability of LPAs to secure suitable land at prices that do not prohibit significant investment in our communities and infrastructure would be a notable improvement.

Q7. Do you consider that it would be beneficial to strengthen policy on development of brownfield land for housing? If not, why not and are there any unintended impacts that we should take into account?

SHDC recognises the merits of prioritizing alternative land-uses on brownfield sites. Again it is felt that the proposed changes will not benefit rural areas, where brownfield land is in short supply and where the majority of small developments of under 10 homes do not come forward on brownfield land.

The principle of supporting development on brownfield land is well established, but a change in national policy is unlikely to affectively address the issues that prevent brownfield sites coming forward.

In rural settlements many brownfield sites are of relatively small-scale, and often in multiple ownership. Viable businesses will often operate adjacent to other parts of employment sites that have fallen into disuse. It is not considered appropriate to make the assumption in a national policy that housing is the most appropriate alternative use for all brownfield sites. Other uses may have a much more beneficial impact, and also represent more compatible uses with the viable businesses that continue to operate in an area.

The need for more housing is widely acknowledged, but it should not be considered the default use of any available land, as this is not how effective and sustainable communities work. In rural areas many commercial and/or employment sites are not located within or adjacent to settlements, and it would be wrong to assume that these sites would be appropriate for housing – the rural settlement pattern in South Hams means that some of these sites could be miles from the nearest town or village, with no public transport links. Development in such locations would be entirely contrary to the collective aims of the NPPF as it would not be considered a sustainable proposal. The fact that a site has previously been used for a commercial use should in no way be considered justification for using the site for housing.

Q8. Do you consider that it would be beneficial to strengthen policy on development of small sites for housing? If not, why not? How could the change impact on the calculation of local planning authorities' five-year land supply?

There is already a broad assumption that housing development within a settlement is supported in principle, and it is often only details of compatibility with surrounding uses and residential amenity that prevent otherwise suitable development coming forward there.

SHDC feels that there is a risk that applying such an assumption within settlements would displace many other vital services, facilities and alternative land-uses that in combination make a settlement sustainable.

SHDC has for some time been regarding proposed development sites adjacent to settlement boundaries on a case-by-case basis, weighing the potential benefits against potential impacts before arriving at a balanced judgement as to whether the proposal can be considered 'sustainable'. The Council feels that the NPPF already provides us with a framework within which to apply this approach, providing that we can be clear about the factors that we consider to make a balanced judgement. A lot of work has been done with our communities – often through the Neighbourhood Planning process - to help them understand that some development proposals on the edge of settlements can bring about a wide range of benefits, and not just the provision of new housing.

Amending the NPPF to give greater weight to development sites simply because they could deliver housing could unbalance the process that, *with the explicit encouragement of government to work with our communities*, we currently use to assess what can be considered 'sustainable'.

SHDC has invested countless hours working with our communities and neighbourhood plan groups to understand the priorities of each community. Simply supporting in-fill development is not enough to secure sustainable futures for rural settlements. Amendments to the NPPF that can help us to work with those communities to bring forward sites in accordance with their priorities would be beneficial. Changes that do not empower these communities would simply serve to lose their trust in local and national government.

Q9. Do you agree with the Government proposal to define a small site as a site of less than 10 units? If not, what other definition do you consider is appropriate, and why?

The general permitted development order already recognises a threshold for 'major' developments as being over 10 dwelling units, and by default provides a definition of what is considered 'minor'.

Providing that the definition of a small site does not trigger concessions, perceived or otherwise, in developer contributions/obligations, SHDC supports this proposal.

Q10. Do you consider that national planning policy should set out that local planning authorities should put in place a specific positive local policy for assessing applications for development on small sites not allocated in the Local Plan?

The NPPF already allows for LPAs to apply their own interpretation of what constitutes 'sustainable development' in their areas, and also to adopt criteria-based policies with which to bring forward sustainable development. If by amending the NPPF locally adopted policies are given greater recognition, then this is supported.

Q11. We would welcome your views on how best to implement the housing delivery test, and in particular

- **What do you consider should be the baseline against which to monitor delivery of new housing?**
- **What should constitute significant under-delivery, and over what time period?**
- **What steps should be taken in response to significant under-delivery?**
- **How do you see this approach working when the housing policies in the Local Plan are not up-to-date?**

It would seem appropriate that the baseline should be the remainder of the approved target for the Local Plan period, annualised to provide a 5 year target.

Since delivery is in the hands of developers, not the local planning authority, in areas of significant under-delivery, planning permissions should automatically expire in one year from approval. On alternative sites, Paragraph 49 of the NPPF would apply in any event, providing a sufficient incentive to prevent developers from 'land banking'.

Paragraph 49 of the NPPF already works well in such circumstances.

Q12. What would be the impact of a housing delivery test on development activity?

Would a recognised 'test' replicate the need to monitor performance? A standard requirement may be helpful to ensure a uniformity of information from LPAs, although one unintended risk would be schemes being delayed until just after LPAs have published annual figures, particularly in areas where a 5-year housing land supply is contested.

Q13. What evidence would you suggest could be used to justify retention of land for commercial or similar use? Should there be a fixed time limit on land retention for commercial use?

There should be no fixed time limit. This would simply guarantee, in many situations, that land would be sterilised whilst developers waited for their land to acquire a 'residential presumption'. That serves neither the local nor the national interest.

If the government believes (as we do) in a plan led system, then a land owner will have ample opportunity to make the case that a site should not be allocated for employment development at the appropriate Examination. If,

despite this, a landowner decides to apply for alternative (housing) use then he/she should be required to demonstrate that he has made proper arrangements to market the site since the last time that it was so allocated (and approved by an independent inspector)

It should not be overlooked that LPAs have a duty to create sustainable places to live, and providing homes in locations that have previously been considered appropriate for employment uses will not make a positive contribution to that requirement.

If the economic downturn has taught us anything it should be that the economy should be the subject of long-term planning, and not focused on short-term returns. Employment sites can experience cyclical fluctuations in fortunes, and it would constitute short-sighted policy making to apply a time limit on this use of land.

Q14. Do you consider that the starter homes exception site policy should be extended to unviable or underused retail, leisure and non-residential institutional brownfield land?

No. The provision of new homes should be in locations that are suited to this type of development, within proximity of public transport, schools, healthcare facilities, shops and other services and amenities. Houses should not be built in locations that are not considered suitable for any other land-use. There is no pre-requisite for retail, leisure or non-industrial uses to satisfy the same sustainable criteria that is required of housing.

Q15. Do you support the proposal to strengthen the starter homes exception site policy? If not, why not?

If an exception site is to be brought forward it should only be because the development has a clear and identifiable community benefit that outweighs the potential impact of development. On its own, a discount open market price for a limited time period does not represent nearly enough benefit to communities, and risks a significant number of poorly located sites with little or no access to local services. There is no planning justification for using an 'exceptions' policy to deliver Starter Homes.

Q16: Should starter homes form a significant element of any housing component within mixed use developments and converted unlet commercial units?

SHDC would like to retain the ability to advise on an appropriate housing mix that is delivered in our area. We would prefer to use an evidence base, such as the Strategic Housing Market Needs Assessment (SHMNA) to inform the housing mix required to meet our varied housing needs. In some areas this may require a significant amount of Starter Homes, in other areas less so.

Q17. Should rural exception sites be used to deliver starter homes in rural areas? If so, should local planning authorities have the flexibility to require local connection tests?

Noting the response to Q15 this would not be a preferred route. However if a proportion of Starter Homes on exception sites is brought forward in policy, then a local connection would provide a useful mechanism to ensure that they are first and foremost meeting a local need. SHDC would support the use of a local connection criteria in such circumstances.

Q18. Are there any other policy approaches to delivering starter homes in rural areas that you would support?

A policy approach that gives rural LPAs the flexibility to use evidence to determine the right level of Starter Home provision alongside other affordable housing types would be welcomed.

Q19. Should local communities have the opportunity to allocate sites for small scale Starter Home developments in their Green Belt through neighbourhood plans?

Not proposing to answer this.

Q20. Should planning policy be amended to allow redevelopment of brownfield sites for starter homes through a more flexible approach to assessing the impact on openness (*NB in Green Belt*)?

In areas outside Green Belt, a flexible approach to assessing the potential use of brownfield sites for Starter Homes would seem appropriate, providing that wider sustainability criteria concerning location of site forms part of the assessment.

Q21. We would welcome your views on our proposed transitional arrangements.

SHDC is currently preparing a new Local Plan, and in that regard we are well placed to respond to new policy requirements that arise in the coming 6 months.

However, such is the scale of the changes proposed that it is unrealistic to expect that a transitional arrangement of 12 months will allow LPAs sufficient time to identify all potential impacts of the change and adequately mitigate these where necessary. Given the high land values in South Hams and the existing challenges that we face in providing a suitable mix of housing to meet the clearly identified needs of our communities, we would need to undertake detailed viability assessment work to inform our future policies, and ensure that we can find a way of continuing to provide a range of housing products for our communities.

Some of the changes proposed have the potential to significantly stall the reallocation or redevelopment of commercial sites whilst land owners wait to find out if their sites are liable to be considered as acceptable in principle for housing.

The delivery of affordable housing, another significant challenge for LPAs, is likely to slow or stall whilst developers wait to find out if the potentially more lucrative Starter Homes requirements can be applied to their sites. This will be particularly felt on allocated development sites, and a reduction in delivery will have a profound impact on the delivery rates of LPAs.

SHDC would prefer to see a longer transition period than is currently proposed, allowing for a greater understanding of the potential impact on wider housing delivery.

Q22. What are your views on the assumptions and data sources set out in this document to estimate the impact of the proposed changes? Is there any other evidence which you think we need to consider?

Locally appropriate data sources regarding population projections and affordable housing need would seem the most appropriate data sources to use when informing housing provision.

Understanding the wider implications of these proposed changes on housing delivery will require SHMNA and Viability Assessments to be adjusted accordingly.

Q23. Have you any other views on the implications of our proposed changes to national planning policy on people with protected characteristics as defined in the Equalities Act 2010? What evidence do you have on this matter?

There is some concern among rural LPAs that the changes represent a possible demise of the rural exception site that can meet a range of affordable housing needs.

Rural communities need confidence that they have genuine influence over what is being developed in their community and traditionally rural exception sites and more recently Neighbourhood Development Plans and Community Land Trust schemes build this confidence.

We need to ensure that communities continue to have confidence in their ability to have some control over housing locally, and in the ability of LPAs to understand what these needs are.

Landowners need clear guidance and incentives if they are to continue to bring forward land for exception site housing. Everything in this proposal undermines the possibility of land coming forward at anything less than market values.