

Subject:	Government Consultations: Local Plan Regulations and National Planning Policy Framework		
Date of Meeting:	15 September 2011		
Report of:	Strategic Director, Place		
Contact Officer:	Name:	Rebecca Fry	Tel: 29-3773
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Key Decision:	No		
Ward(s) affected:	All		

FOR GENERAL RELEASE.

1. SUMMARY AND POLICY CONTEXT:

- 1.1 This report seeks approval of the council's responses to two recent Government Consultations relating to the Local Plan Regulations and the National Planning Policy Framework (NPPF). The response to the Local Plan Regulations is generally supportive and the details are set out in Appendix 1. The response to the NPPF raises a number of concerns and the details are set out in Appendix 2.

2. RECOMMENDATIONS:

- 2.1 That the Cabinet Member for Planning, Employment, Economy & Regeneration approves the council's response to the Government's consultation relating to the Local Plan Regulations (see Appendix 1); and,
- 2.2 That the Cabinet Member for Planning, Employment, Economy & Regeneration approves the council's response to the Government's consultation relating to the draft National Planning Policy Framework (see Appendix 2). The Cabinet Member will be consulted should minor amendments be suggested following officer attendance at a Department for Communities and Local Government NPPF seminar on 28 September.

3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:

- 3.1 The Government Department for Communities and Local Government has published a number of consultation papers relating to planning in recent months. A key objective for the Government is to reform the planning system in order to simplify it and to promote sustainable development placing emphasis on housing and economic growth. It also seeks to give neighbourhoods far more ability to determine the shape of the places in which their inhabitants live. This report relates to two of the recent consultations.
- 3.2 **Local Plan Regulations:** This consultation seeks views on the revision of regulations relating to the process of preparing a Local Plan which are subject to

change when the Localism Bill is enacted¹. The government proposes to consolidate the changes into a single document and to ensure the regulations are as effective and simple as possible. The deadline for consultations responses is **7 October 2011**.

- 3.3 In revising the regulations in response to the Bill, and consolidating changes made since 2004, the basic process of plan preparation is largely unchanged in order to meet European Union (EU) requirements. The process for preparing development plan documents still consists of:
- an engagement stage (preparation of a development plan document) - Regulation 19
 - one formal consultation stage (publication of a development plan document) - Regulation 20
 - Submission to the Secretary of State - Regulation 23
- 3.4 The council's response addresses the following:
- It is supportive of the approach to consolidating the changes made since 2004 and streamlining requirements to reduce repetition. It is considered this will simplify the document and make it easier to understand;
 - Clarification is sought in respect of the potential change to the requirements regarding the role and preparation process of the Statement of Community Involvement;
 - Clarification is sought as to whether a Local Development Scheme or its revisions needs to be formally brought into effect by the council;
 - A query is raised in respect of the removal of the specific reference to design and access objectives in the list of matters a development plan document can contain.
- 3.5 The council's proposed response to the Local Plan Regulations is set out in Appendix 1.
- 3.6 **National Planning Policy Framework:** The Government views this as a key part of its reforms to make the planning system less complex, more accessible, and to promote sustainable growth. The National Planning Policy Framework (NPPF) is intended to replace and consolidate concisely all existing Planning Policy Statements/Guidance (excluding those relating to Waste and some Mineral guidance), two Planning Circulars and some Letters to Chief Planning Officers. It consolidates over 1,000 pages of national planning policy guidance, into one 52 page document The deadline for consultation responses is **17 October 2011**
- 3.7 The NPPF provides guidance on delivering sustainable development, plan making and development management it then sets guidance out within three main themes which are : planning for prosperity; planning for people; and, planning for places.
- 3.8 It introduces a number of changes. Some of the key changes are:

¹ The process of preparing a local plan is currently set out in the Planning and Compulsory Purchase Act 2004 and the Town and Country Planning (Local Development) (England) Regulations 2004, as amended in 2008. The Localism Bill is intended to amend the 2004 Act.

- It sets a “presumption in favour of sustainable development” which is seen as a ‘golden thread’ through both plan making and decision taking. At the same time significant weight is to be attached to the benefits of economic and housing growth;
- It sets a pro-growth and development approach. Planning permission is to be granted where a plan is absent, silent, indeterminate or where relevant policies are out of date. There is an expectation that development will be granted unless the Local Planning Authority can prove the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole;
- No necessary contradiction is seen between increased levels of growth and development and protecting and enhancing the natural and built environment. The national target for development on housing on brownfield (previously developed land) sites has been removed;
- It makes provisions for Parishes and Neighbourhood Forums to draw up Neighbourhood Plans for the development and use of land in their local area. A ‘duty to co-operate’ requires public bodies to cooperate on planning issues which cross administrative boundaries;
- Local Plans are to be prepared on the basis that objectively assessed development needs should be met including the full requirements for market and affordable housing within the wider housing market area;
- Community Infrastructure Levy charges should be worked up and tested alongside the Local Plan, and should support and incentivise new development, with a meaningful proportion of the funds raised staying with those neighbourhoods where development takes place;
- The NPPF removes the need for office schemes to show that they could not be located any closer to the town centre.

3.9 The response from the city council supports the aims of the Government to consolidate national planning policy guidance and to promote economic growth and additional homes. However, there are serious concerns over the potential effect of the overall direction of the draft NPPF on the environment (including natural, built and historic) and social factors, as it places priority on economic and housing growth and approval of development. Additionally the draft NPPF is contrary to the stated aims of localism. It sets a strong pro-development framework within which there is little scope for local authorities and neighbourhoods to make local decisions to shape places.

3.10 The council’s response:

- Identifies areas of the draft NPPF where guidance continues to be welcomed, eg retail
- Identifies areas of the draft NPPF where it insufficiently addresses a particular issue eg enforcement, open space etc
- Disagrees with how the draft NPPF interprets the delivery of sustainable development and its failure to fully define sustainable development. Sustainability is widely recognised to comprise of three key pillars: economic, environmental and social. The draft NPPF shifts the balance too far in favour of economic and housing growth so as to undermine genuine sustainable development.
- Identifies instances where previously welcomed government guidance is missing from the draft NPPF eg no reference to the protection of the countryside for its own sake. The draft NPPF appears to make little

distinction between development within the built up area and within the countryside, except in respect of the Green Belt and designated areas such as National Parks.

- Identifies the new policy directions which raise specific concerns for Brighton & Hove eg a) the need for Local Plans to meet the full requirements for market and affordable housing (this would result in a housing target significantly greater than that set in the South East Plan for Brighton & Hove) and, b) there appears to be a weakening in the protection currently offered to open space compared with current national policy documents.
- Raises a concern with the undue emphasis placed on presumption in favour of growth and development. It is considered this undermines the creation of genuine sustainable development, the plan-led system and Neighbourhood Planning.
- Requests greater clarification over the role of good practice guidance. The brevity of the draft NPPF has not been supported with sufficient clarity which is undermining the intended aim of simplifying planning.

3.11 Full details of the proposed comments made in response to the NPPF are set out in Appendix 2.

4. CONSULTATION

4.1 Internal consultation has been undertaken with key officers in order to ensure the various topics are best addressed.

5. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

5.1 The cost of preparing the council's response consists of officers' time and has been met from existing Planning revenue budgets. If the National Planning Policy Framework is approved it could give rise to an increase in planning appeals and costs, which would then also need to be met from the revenue budgets.

Finance Officer Consulted: Karen Brookshaw Date: 15/08/11

Legal Implications:

5.2 It is possible that these radical proposals could lead to a significant increase in planning appeals and costs, although until such time that the changes are actually made by the government there are no direct legal implications arising from this report.

Lawyer Consulted: Bob Bruce Date: 26/08/11

Equalities Implications:

5.3 The Government consultation documents and the council's responses seek to take into account equalities issues. A key concern raised in the council's response in respect of the draft NPPF is the shift in the balance between

economic and housing growth versus social and environmental factors. This may lead to additional, currently unidentified, equalities implications.

Sustainability Implications:

- 5.4 Sustainability considerations are central to the planning system and form part of the consultation documents and responses respectively. Whilst the NPPF introduces a 'presumption in favour of sustainable development' it also applies a number of 'pro-growth' measures and does not make a distinction between the countryside and the built up area. The 'pro-growth' emphasis may undermine and offer less protection to elements of sustainability.

Crime & Disorder Implications:

- 5.5 None identified in respect of the Local Plan Regulations. In respect of the NPPF, the Government consultation document and the council's response take into account crime and disorder issues.

Risk and Opportunity Management Implications:

- 5.6 None identified

Corporate / Citywide Implications:

- 5.7 In respect of the Local Plan Regulations, whilst there are amendments to the current system they are not considered to have significant corporate or citywide implications. The duty to co-operate will result in the formalisation and enhancement of current processes.
- 5.8 If the NPPF is introduced as drafted there may be corporate and citywide implications. The Council's response indicates the main impacts of the draft NPPF; however it increases the emphasis on producing and adopting a new comprehensive city wide local plan.

6. EVALUATION OF ANY ALTERNATIVE OPTION(S):

- 6.1 None required. A do nothing approach (not responding to the consultation documents) is not considered appropriate in view of the importance of these documents within the planning system.

7. REASONS FOR REPORT RECOMMENDATIONS

- 7.1 To gain formal approval of the council's response to the Government consultation on the Local Plan Regulations prior to the consultation deadline of 7 October 2011. And:
- 7.2 To gain formal approval of a council response to the Government consultation on the draft National Planning Policy Framework prior to the consultation deadline of 17 October 2011. Due to the CMM cycle and the consultation deadline it has not been possible to finalise the response with all key officers. Approval is therefore sought for the submission of a response similar to Appendix 2, with the agreement that the Cabinet Member will be consulted on the final amended response.

SUPPORTING DOCUMENTATION

Appendices:

1. Brighton & Hove City Council's response to the Government Consultation on the Local Plan Regulations.
2. Brighton & Hove City Council's draft response to the Government Consultation on the draft National Planning Policy Framework (NPPF). The response includes:
Appendix 2 Part A: Response to the NPPF Impact Assessment

Documents in Members' Rooms

None

Background Documents

1. Department of Communities and Local Government consultation on the Local Plan Regulations
2. Planning and Compulsory Purchase Act 2004
3. Town and Country Planning (Local Development) (England) Regulations 2004, as amended in 2008
4. Department of Communities and Local Government consultation on the Draft National Planning Policy Framework

Documents to be replaced by the NPPF

5. Planning Policy Statement 1: Delivering Sustainable Development
6. Planning Policy Statement: Planning and Climate Change - Supplement to Planning Policy Statement 1
7. Planning Policy Guidance 2: Green Belts
8. Planning Policy Statement 3: Housing
9. Planning Policy Statement 4: Planning for Sustainable Economic Growth
10. Planning Policy Statement 5: Planning for the Historic Environment
11. Planning Policy Statement 7: Sustainable Development in Rural Areas
12. Planning Policy Guidance 8: Telecommunications
13. Planning Policy Statement 9: Biodiversity and Geological Conservation
14. Planning Policy Statement 12: Local Spatial Planning
15. Planning Policy Guidance 13: Transport
16. Planning Policy Guidance 14: Development on Unstable Land
17. Planning Policy Guidance 17: Planning for Open Space, Sport and Recreation
18. Planning Policy Guidance 18: Enforcing Planning Control
19. Planning Policy Guidance 19: Outdoor Advertisement Control
20. Planning Policy Guidance 20: Coastal Planning
21. Planning Policy Statement 22: Renewable Energy
22. Planning Policy Statement 23: Planning and Pollution Control
23. Planning Policy Guidance 24: Planning and Noise
24. Planning Policy Statement 25: Development and Flood Risk
25. Planning Policy Statement 25 Supplement: Development and Coastal Change
26. Minerals Policy Statement 1 : Planning Minerals
27. Minerals Policy Statement 2: Controlling and Mitigating the Environmental Effects of Mineral Extraction in England (including Annex 1 and Annex 2)

28. Minerals Planning Guidance 2: Applications, permissions and conditions
29. Minerals Planning Guidance 3: Coal Mining and Colliery Spoil Disposal
30. Minerals Planning Guidance 5: Stability in surface mineral workings and tips
31. Minerals Planning Guidance 7: Reclamation of mineral workings
32. Minerals Planning Guidance 10: Provision of raw material for the cement industry
33. Minerals Planning Guidance 13: Guidelines for peat provision in England
34. Minerals Planning Guidance 15: Provision of silica sand in England
35. Circular 05/2005 : Planning Obligations
36. Government Office London Circular 1/2008 : Strategic Planning in London
37. Letter to Chief Planning Officers : Addition of the Forestry Commission to the List of Non-Statutory Consultees
38. Letter to Chief Planning Officers : Town and Country Planning (Electronic Communications) (England) Order 2003
39. Letter to Chief Planning Officers : Planning Obligations and Planning Registers
40. Letter to Chief Planning Officers : Model Planning Conditions for development on land affected by contamination
41. Letter to Chief Planning Officers : National Policy Statements
42. Letter to Chief Planning Officers : Local authorities' role in new consenting process for nationally significant infrastructure projects
43. Letter to Chief Planning Officers : Planning for Housing and Economic Recovery
44. Letter to Chief Planning Officers : Development and Flood Risk – Update to the Practice Guide to Planning Policy Statement 25
45. Letter to Chief Planning Officers : Implementation of Planning Policy Statement 25 (PPS25) – Development and Flood Risk
46. Letter to Chief Planning Officers : The Planning Bill – delivering well designed homes and high quality places
47. Letter to Chief Planning Officers : Planning and Climate Change – Update
48. Letter to Chief Planning Officers : New powers for local authorities to stop 'garden –grabbing'
49. Letter to Chief Planning Officers : Area Based Grant : Climate Change New Burdens
50. Letter to Chief Planning Officers : The Localism Bill
51. Letter to Chief Planning Officers : Planning policy on residential parking standards, parking charges, and electric vehicle charging infrastructure.

National Planning Policy Documents that are not being replaced by the NPPF

52. Planning Policy Statement: eco-towns - A supplement to Planning Policy Statement 1
53. Planning Policy Statement 10: Planning for Sustainable Waste Management
54. Minerals Planning Guidance 4: Revocation, modification, discontinuance, prohibition and suspension orders
55. Minerals Planning Guidance 8: Planning and Compensation Act 1991 - Interim Development Order Permissions (IDOS): Statutory Provisions and Procedures
56. Minerals Planning Guidance 9: Planning and Compensation Act 1991 - Interim development order permissions (IDOS): conditions
57. Minerals Planning Guidance 14: Environment Act 1995 - Review of Mineral Planning Permissions