

CHESHIRE EAST COUNCIL

CABINET

Date of Meeting: 3 October 2011
Report of: Strategic Director - Places
Subject/Title: Draft National Planning Policy Framework
Portfolio Holders: Cllr David Brown & Cllr Rachel Bailey

1.0 Report Summary

- 1.1 This report introduces the draft National Planning Policy Framework (NPPF), outlines some of the issues it raises for planning in Cheshire East and suggests a proposed response by the Council to the current consultation. The matter is scheduled to be considered by Full Council on 13 October.

2.0 Decision Requested

- 2.1 That the Cabinet consider the comments of Strategic Planning Board on the Draft National Planning Policy Framework.
- 2.2 That the Cabinet considers the report in the light of these comments and recommends that Council approves the consultation response detailed in Appendix 1 of the report.

3.0 Reasons for Recommendation(s)

- 3.1 To enable the Council to influence the development of the National Planning Policy Framework.

4.0 Wards Affected

- 4.1 All

5.0 Local Ward Members

- 5.1 All

6.0 Policy Implications

- 6.1 The National Planning Policy Framework will replace the current suite of existing national Planning Policy Statements, Planning Policy Guidance notes and some Circulars with one single document. The Local Plan will need to be prepared in accordance with the policies in the NPPF to ensure that the future development of the Borough is planned in a sustainable

manner and supports sustainable economic growth. The policies in the NPPF will also apply to development management decisions.

7.0 Financial Implications

- 7.1 The NPPF refers to neighbourhood plans which are a new element to the planning system being introduced through the Localism Bill and to the need for the Council to undertake viability assessments for individual sites within its 5 year housing supply. These proposals will have resource implications for the Council.

8.0 Legal Implications

- 8.1 The provisions of the Planning and Compulsory Purchase Act 2004 already cover the status of national planning policy in plan preparation and decision making. Therefore, the NPPF will have the same legal status as current Government policy documents.

9.0 Risk Management Implications

- 9.1 Significant risk that the existing Local Plans are not found to be in conformity with the National Planning Policy Framework and that Development Management decisions would be reliant on the NPPF, rather than local planning policy, until a new Local Plan is adopted.

10.0 Background and Options

- 10.1 The Government considers that the amount of central direction within the planning system is too great, and with more than 1,000 pages of national planning policy, the system has become unwieldy and complex. It has recently published the draft National Planning Policy Framework for consultation until 17th October 2011, which streamlines national policy into a consolidated set of priorities to consider when planning for and deciding on new development. The draft NPPF is presented in one single document written in plain English with the view that it can be understood and used by everyone who has an interest in shaping the development of their area.
- 10.2 The draft Framework sets out the Government's requirements for the planning system 'only to the extent that it is relevant, proportionate and necessary to do so', and in the spirit of localism, leaves scope for local areas and neighbourhoods to develop their own policies and proposals in accordance with the general approach set out in the NPPF. In many areas, policy has been streamlined but the core approach and principles remain the same. However, there are some areas where a completely new approach is being introduced.
- 10.3 The draft NPPF does not cover planning for Travellers. A separate draft Planning Policy Statement on Travellers was published on 13th April 2011. Consultation on this document has now ended and it is intended that the final policy will be incorporated into the NPPF. It also does not cover

planning for waste. This will be incorporated into the National Waste Management Plan and until that plan is finalised, Planning Policy Statement 10: Planning for Sustainable Waste Management will remain in force.

- 10.4 Under the draft NPPF, the purpose of the planning system is “to contribute to the achievement of sustainable development” and the definition of sustainable development is “development that meets the needs of the present without compromising the ability of future generations to meet their own needs”. For the planning system, delivering sustainable development means planning for prosperity (an economic role), planning for people (a social role) and planning for places (an environmental role).
- 10.5 The Government is clear that the planning system should operate to encourage growth and not act as an impediment. The NPPF introduces a new presumption in favour of sustainable development where the default answer to development proposals is “yes”. Local planning authorities should plan positively for new development and approve all individual proposals wherever possible.
- 10.6 The plan-led system remains where Local Plans should be prepared on the basis that objectively assessed development needs should be met. Development proposals that accord with statutory plans should be approved without delay, and permission should also be granted where the plan is absent, silent, indeterminate or where relevant policies are out of date.
- 10.7 Although the draft NPPF is a consultation document and, therefore, subject to potential amendment, it does give a clear indication of the Government’s ‘direction of travel’ in planning policy. The draft document is capable of being a material consideration in the determination of planning applications, although the weight given to it is likely to be limited at present, and will be a matter for the decision maker’s planning judgement in each case.
- 10.8 **POTENTIAL ISSUES / IMPLICATIONS FOR CHESHIRE EAST:**
- 10.9 **Presumption in favour of sustainable development.** It is very difficult to define what does and what does not constitute sustainable development, and the draft NPPF’s definition that it is “development that meets the needs of the present without compromising the ability of future generations to meet their own needs” is open to interpretation. There is potential for a real lack of certainty in the planning system for many years to come as what is and what isn’t sustainable development is defined through case law and tested through planning appeals.
- 10.10 **Requirement to grant permission where the plan is absent, silent or where relevant policies are out of date.** Up-to-date Local Plans (i.e. plans that are consistent with the NPPF) should be in place as soon as practical, but in the absence of an up-to-date and consistent plan, planning

applications should be determined in accordance with the NPPF, including its presumption in favour of sustainable development.

- 10.11 It will be open to local planning authorities to seek a certificate of conformity with the Framework for their Local Plans. In the absence of further guidance on how this would work, it is considered unlikely that any of the existing Cheshire East Local Plans would be in overall conformity with the Framework, and would therefore be accorded very little weight in the planning process.
- 10.12 The planning system works best when there is certainty and consistency in the decisions that it delivers. The relative brevity of the draft NPPF which covers such a wide range of topics is not consistent with providing clarity and certainty in the planning system.
- 10.13 The NPPF has been drafted with the intention of providing “a framework within which local people and their accountable councils can produce their own distinctive local and neighbourhood plans, which reflect the needs and priorities of their communities”. The local element of policy should add locally-distinctive detail and clarity to the overall approach set out in the NPPF.
- 10.14 In the short term, prior to the adoption of an up-to-date plan that is in conformity with the NPPF, the Council would be almost entirely reliant on the simplified policies in the NPPF to make decisions on planning applications. The removal of the existing local tier of planning policy (although temporary) would lead to:
- inconsistent planning decisions;
 - no requirement for development in the most sustainable locations to come forward first;
 - planning by appeal rather than decision making through a plan led system; and
 - the potential imposition of unwanted development that does not reflect the needs and priorities of communities.

This is of particular concern due to the presumption in favour of sustainable development contained in the NPPF and the difficulty in defining what does and what does not constitute sustainable development.

- 10.15 It is suggested that the Council’s consultation response expresses concerns over the potential for a temporary absence of meaningful local planning policy and advocates the need for a transition period, whereby the presumption to approve development will be applied flexibly and local circumstances and evidence base will be taken into account, even if there is not a relevant or up-to-date local plan policy.
- 10.16 **Five-year supply of land for housing.** The draft NPPF continues the existing requirement for local planning authorities to identify a rolling supply of deliverable sites sufficient to provide five years supply of land for

housing. However, it also introduces a requirement to identify a further 20% in addition, to provide choice and competition in the market for land.

- 10.17 Cheshire East does not presently have a five year supply and has introduced an interim policy in an attempt to encourage applications in sustainable locations to increase the land supply. This is a response to the current situation, but is not a substitute for properly planned development coming forward through the development plan, which will ensure that new development enables the comprehensive provision of appropriate community and physical infrastructure.
- 10.18 It is suggested that the consultation response should note that the requirement of an additional 20% in the housing land supply could lead to more development coming forwards in an unplanned manner that may not be in the most sustainable locations and which may not deliver the required infrastructure arising from the cumulative impacts of development.
- 10.19 The draft Framework has also introduced a new definition for determining whether a site is 'deliverable' which will place a greater onus on local authorities to carry out expensive and time-consuming evidence base work. The definition will require councils to carry out a detailed viability assessment of each individual site within its 5 year housing land supply. This requirement could introduce greater uncertainty in the development process, with assessments being susceptible to challenge. Developers promoting their own less suitable sites for development could seek to undermine the Council's 5 year land supply by casting doubt on the viability assessments at appeal.
- 10.20 **Delivery of community facilities and local services.** The policy requirement to ensure that housing is developed in suitable locations which offer a range of community facilities and good access to key services and infrastructure is welcomed. However, it is considered that the subsequent wording (para 126) "where large scale development is proposed in less sustainable locations, local planning authorities should require investment to improve the sustainability of the site" does not adequately reflect the fact that development should only be approved in less sustainable locations as a last resort. The requirement to only 'improve' sustainability provides a degree of latitude which may not be helpful when negotiating with developers on the provision of essential infrastructure.
- 10.21 **Protection of employment land or floorspace** (para 75). The draft NPPF requires that "planning policies should avoid the long term protection of employment land or floorspace, and applications for alternative uses of designated land or buildings should be treated on their merits having regard to market signals and the relative need for different land uses".
- 10.22 The requirement not to protect employment land or floorspace is supported where it is no longer able to fulfil a useful economic function. However, in areas of high demand for housing such as Cheshire East, there is a need

to protect good employment sites that fulfil a useful economic function from other competing, higher-value land uses. It is suggested that the Council's consultation response should indicate the need to reword this paragraph so that the protected designation afforded to employment land or floorspace be subject to regular reviews to ensure that the land or floorspace still performs a useful economic function.

- 10.23 **Removal of offices from town centres first policy.** The promotion of vital and viable town centres is welcomed, but there is concern over the removal of B1a office development from the 'town centres first' policy. It would no longer be necessary to demonstrate that there are no more central sites available for office development. Office workers make a valuable contribution to the vitality and viability of town centres, and town centre locations are usually the most accessible by sustainable transport modes. The lack of suitable in-centre sites should not preclude office development elsewhere but the complete removal of the sequential test for office development is likely to lead to less sustainable patterns of development and may damage the vitality and viability of existing centres. It is suggested that the Council's consultation response raises this issue as an area of concern.

11.0 Access to Information

The background papers relating to this report can be inspected by contacting the report writers:

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