

# Neighbourhood Planning update Aug 2021

- (i) Introductions
- (ii) Changes to planning system since White Paper and what is coming up
- (iii) Update on National Planning Policy Framework 2021 (NPPF)
- (iv) Discussion
- (v) Neighbourhood Planning:
  - Reviewing neighbourhood plans - procedurally, what is involved?
  - Timescales to review a 'made plan' - when is a referendum needed?
  - When does NPPF paragraph 14 'protection' apply - importance of allocations
  - Planning positively for housing
- (vi) Discussion

# What has happened since publication of the White Paper?

- Over 40,000 responses.
- Underlying objective is to build 300,000 homes a year
- Raft of incremental changes to planning system, new NPPF is the latest
- Environment Bill - due to receive Royal Assent in Autumn – biodiversity net gain
- Permitted Development - what can be done without permission, several changes
- Planning Bill - due later this year

## ...in just 9 months

Aug 2020, consultations on reforms:

[Planning for the future - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/planning-for-the-future)

[Changes to the current planning system - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/changes-to-the-current-planning-system)

Dec 2020:

[Government response to the \*\*local housing need proposals\*\* in "Changes to the current planning system" - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/government-response-to-the-local-housing-need-proposals-in-changes-to-the-current-planning-system)

Jan 2021, consultation:

[National Planning Policy Framework and National Model Design Code: consultation proposals - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/national-planning-policy-framework-and-national-model-design-code)

Apr 2021:

[Government response to the \*\*First Homes proposals\*\* in "Changes to the current planning system" - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/government-response-to-the-first-homes-proposals-in-changes-to-the-current-planning-system)

- Incremental roll out of changes – NPPF being latest



# Queens Speech

- **Planning Bill**
- Likely to be brought forward in Autumn.
- Aim to modernise the planning system so that more homes can be built, ambition for 300,000 new homes
- Deliver homes and infrastructure like school and hospitals more quickly
- Move to digital and map based service
- More active public engagement in developing local areas
- Simpler system for funding infrastructure and assessing environmental impacts and opportunities (CIL/S106)

# Main elements proposed for Planning Bill

- Main elements
- Change how local plans are developed (based on 3 zone system),
- Speed up major decision making
- Change how infrastructure is funded with a more predictable and transparent levy
- Simplify environmental assessments
- Main benefits seen as more certainty with zoning, quicker plan making and delivery of housing, particularly affordable housing and infrastructure and digital systems.

# Other factors affecting planning in Queens Speech

## **Environment Bill**

- Environment at centre of policy making, legally binding environmental targets, new measures for recycling, tackling air pollution, water supply, protection of nature and improvements to biodiversity.

Key elements :- Environment golden thread of policy, preserving existing resources, more recycling; legally binding targets for air quality; biodiversity net gain measures to ensure new homes not built at the expense of nature; Local Nature Recovery Strategies and Nature Recovery Networks to join up sites and create wildlife rich places

## **Building Back Better: Jobs and Recovery**

- Priority to support jobs, businesses and economic growth, improve living standards, health, education

## **National Infrastructure Plan**

- To strengthen ties across nations as infrastructure is key to delivering long term sustainable growth

# Main change to NPPF published July 2021

[National Planning Policy Framework - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/national-planning-policy-framework)

- These largely reflect changes outlined in the consultation paper of 2020 setting out proposals for change to the planning system.
- Intention is to *“place greater emphasis on beauty, place-making, the environment, sustainable development and underlines the importance of local design codes.”* (MHCLG)

# Overview from Written Ministerial Statement

- Intention to “make beauty and place-making” a strategic theme in the NPPF
- set out the expectation that local authorities produce their own design codes and guides setting out design principles which new development in their areas should reflect
- set an expectation that all new streets are tree-lined
- improve biodiversity and access to nature through design
- put an emphasis on approving good design as well as refusing poor quality schemes
- Also made a number of environment-related changes, including on flood risk and climate change.



# Amended Presumption para 11

- NPPF recognises need to align with 17 goals set out for sustainable development by UN.
- So slight revision in emphasis in the 3 overarching sustainable development principles to include reference to “*beautiful and safe*” places and strengthening reference under environmental objective to now read “*to protect and enhance*” and “*improving biodiversity*” rather than just helping to or contributing towards doing so.
- This emphasis is particularly important for plan-making as para 11a) now reads “*all plans should promote a sustainable pattern of development that seeks to meet the development needs of their area; align growth and infrastructure; improve the environment; mitigate climate change (including by making effective use of land in urban areas) and adapt to its effects.*”

# Design

- Change in emphasis for policy making with design at forefront including:
- Para 73c) sets out expectations on the use of masterplans and design guides or design codes *“to secure a variety of well-designed and beautiful homes to meet the needs of different groups in the community”*
- Amendment to new large homes in countryside, removing need for them to be *“innovative”*
- Safe and accessible places (para 92 b) also amended to include being *“attractive and well-designed”* and including cycle routes as well as pedestrian routes to promote policies for health and well-being

# Design codes – both policy and decision making

- Para 110 amended to include new subsection c) *“the design of streets, parking areas, other transport elements and the content of associated standards reflects current national guidance, including the National Design Guide and the National Model Design Code”*
- Requirement for area-based character assessments , design guides and codes and masterplans to ensure efficient use of land (para 125) and to identify special characteristics of areas.
- Design Guides and codes can be prepared at any scale including site specific and need to be either part of a plan or SPD (para 129). Can be LPA or developer led but must involve community engagement.
- Default to national documents in absence of local ones from now on in decision making
- Poor design should be refused if not meeting design guidance (para 134 strengthened)

# Trees and biodiversity

- New Para 131 re trees and importance in urban areas for character, quality of life and climate change.
- Requirement for policies and decisions to ensure streets are trees-lined, with other things like community orchards and parks and that maintenance is in place to retain these long term. Emphasis on planning and highways working to find right trees for right places.
- Footnote 50 implies tree lined streets should be the norm *“unless, in specific cases, there are clear, justifiable and compelling reasons why this would be inappropriate.”*
- Expected that measures to improve biodiversity be integrated into new development as part of the design and public access to nature included where appropriate.

# Open Space and climate change

- Important addition to para 98 re open space and recreation demonstrating the importance that high quality open spaces can bring to both nature and climate change, as well as health and well being.
- Similar emphasis on walking and cycling in para 106 d) requiring “*attractive and well-designed walking and cycling networks*” and the requirement for secure cycle parking to be provided – encouraging use of alternative transport modes other than the car is subtly introduced in a few places.
- Change in emphasis on flooding 159 onwards including importance of green infrastructure, natural flood management and inclusion of all sources of flooding, including speed of recovery of development from a flood event. (NB definition of GI in glossary includes GBI)

## Other changes

- Timescales for plans that bring forward major new settlements or urban extensions which are part of the areas strategy, such plans should have 30 year timescale.
- Restricting Use of Article 4 directions to prevent permitted development for residential uses in town centres, effectively promoting COU to residential under PD
- Faster delivery of key public infrastructure such as FE colleges, hospitals and criminal justice institutions- Para 96
- New guidance on considering removal of statues (para 198)
- New classification of Flood Risk (Annex 3) based on vulnerability of development types

## Neighbourhood plans – specific references

- Para 70 now reads “*Neighbourhood Planning groups should also give particular consideration to the opportunities for allocating small and medium sizes sites.....*” rather than should just “*consider*”
- Para 127 Neighbourhood planning groups expected to play an important role in improving design and identifying the qualities that make their area special in both their own plans and by engaging in the production of design policy and codes working with the LPA and developers in line with the National Design Guide and National Model Design Code looking at local character and preferences
- Emphasis remains on local allocations to boost housing numbers

## Things not there which could have been

- Change in Duty to Co-operate – no changes thus far
- Nothing changed for developer contributions



# Discussion

# Neighbourhood Plans: plan review

- Reviewing 'made' neighbourhood plans - what is involved procedurally?
- Timescales to review neighbourhood plans - when is a referendum needed?
- When does NPPF protection apply? - importance of allocations & planning positively for housing
- Role of indicative housing requirements
- Discussion

# Reviewing neighbourhood plans

- Extent of review depends on plan
- Scoping nature of review important - modifications to potentially address...
  - Effectiveness of policies
  - Changes to national and local policy
  - Local circumstances
- Modifications can be 'minor' or 'material'
- Process generally similar to first plan where modifications 'material'
- 'Material modification do not change the nature of plan = no referendum
- 'Material modification do change the nature of plan = referendum required
- Qualifying Body (QB) and Wiltshire Council prepare statements to justify whether nature of plan has changed
- Ultimately the Examiner decides whether referendum required

## Material modifications - case examples

- “Parish Council now wish to revise a single policy of the Plan; this is Policy B11, which deals with carparking standards. I am in agreement with both the Local Planning Authority and the Parish Council that this proposal, while a “material” one in terms of the legislation, **would not be so significant or substantial as to change the nature of the Plan**” (Examiner, Branston Neighbourhood Plan, 2019)
- Similar conclusion by Brancaster Neighbourhood Plan Examiner (Jan 2021), no referendum because:
  - “ the policies largely repeat those in the ‘made’ Plan; and the modifications in the Review bring the Plan up to date to reflect changes in national and local planning policy.”

## Material modifications - case examples (cont.)

- “Material modifications which do change the nature of the plan or order would require examination and a referendum. This might, for example, involve **allocating significant new sites for development.**” (Planning practice guidance)
- Chinnor Neighbourhood Plan Review (2020), substantial modifications requiring referendum:
  - new policy allocating five sites for housing developments;
  - development boundary around village in new policy;
  - reworded policies to make clearer and more precise; and factual changes.
- Limited case studies

# How do we determine whether a referendum is required?

- No prescriptive answer, ultimately a matter of judgement
- Specific circumstances relating to your plan that will be important
- Some factors on next slide (not comprehensive list) that will inform yours (and our) judgement about whether modification is so material that the nature of the plan has changed

# Factors that can inform whether nature of plan has changed

1. Number of allocations made originally;
2. Size of those allocations;
3. Number of allocations within the modification;
4. Size of those allocations;
5. Proportion that point 4 is of point 2;
6. Extent to which revised allocations required supporting SEA/HRA;
7. Extent to which level of new development is so significant to amount to a new plan;
8. Extent to which level of new development is so significant as to require a fresh mandate from the residents of the designated area;
9. Extent to which area so designated may have changed geographically.

Not an exhaustive list, will be a combination of factors

# Procedures & timescales - a summary

- Depends on plan, nature of review and Qualifying Body (QB) ambition

First phase - QB led:

- Scoping review and developing draft modifications to plan (SEA/HRA screening opinions)
- Consultation by QB (Regulation 14) = minimum 6 weeks
- Analysis of consultation response, finalising draft modifications, preparing for submission to Local Planning Authority

Second phase - LPA led (if all goes to plan!):

- Approx. 30 weeks (Reg 16 consultation - modified plan, examination), with referendum
- Without referendum approx. 10 weeks less
- But risk that Examiner disagrees with our judgement that modifications change nature of the plan



# When does NPPF '3 year housing land supply' protection apply ?

- Can be a motivating factor for the review and updating of 'made' plans
- Critical requirements of paragraph 14 to be met:
  - “*(a) the neighbourhood plan became part of the development plan two years or less before the date on which the decision is made*”; and
  - “*(b) the neighbourhood plan contains policies and allocations to meet its identified housing requirement.*”
- Indicative figure can be provided by Wiltshire Council if planning beyond 2026
- Best form of protection is to modify plan to plan positively for new homes and demonstrably improve supply of housing above your made plan and include allocation(s)

## Housing to plan for

- **Local Plan housing requirements:** *“strategic policies should also set out a housing requirement for designated neighbourhood areas which reflects the overall strategy for the pattern and scale of development and any relevant allocations.”*

(para 66, NPPF)

- **Indicative housing figure:** *“Where it is not possible to provide a requirement figure for a neighbourhood area, the local planning authority should provide an indicative figure, if requested to do so by the neighbourhood planning body. This figure should take into account factors such as the latest evidence of local housing need, the population of the neighbourhood area and the most recently available planning strategy of the local planning authority”.*

(para 67, NPPF)

# Indicative housing figures for plans post 2026

- If requested, we can provide an indicative housing figure
- 2021 Local Plan Review consultation provides the best available information currently:
  - (i) Planning for Principal Settlements and Market Town documents (brownfield targets and settlement figures)
  - (ii) Empowering Rural Communities document (settlement figures for Local Service Centres and Large Villages, approach for Small Villages)
- But, not tested at examination thus subject to change as progress LPR - ongoing engagement with Wiltshire Council important
- Typically, different types of plan areas that will inform the indicative housing figure
- But it's not all about numbers, consider whether other reasons to plan positively for new homes

# Planning positively for new homes

- *“Neighbourhood planning bodies are encouraged to plan to meet their housing requirement, and where possible to exceed it.”* (Planning Practice Guidance)
- Ability to allocate more than core strategy requirement and indicative housing figure
- General conformity with strategic policies (Wiltshire Core Strategy) important
- Allocating additional homes may enable place shaping objectives for your community to be met e.g. securing affordable homes, providing types of housing needed, enabling the regeneration of a disused site or delivery of new infrastructure

# Discussion