

KEY CHANGES TO THE NPPF DECEMBER 2023 – NOTE FOR WBC MEMBERS FEBRUARY 2024

Introduction

Links to the revised NPPF and a useful comparison with the previous version are below.

[The National Planning Policy Framework \(NPPF\), 20 December 2023](#)

[Comparison of the NPPF September 2023 with the NPPF December 2023](#)

The accompanying Written Ministerial Statement (WMS) explains why changes to the NPPF have been made. It also provides an update on wider reforms to the planning system.

[Written Ministerial Statement by the Secretary of State for Levelling Up, Housing and Communities, 19 December 2023](#)

This note provides a commentary on the key changes to the NPPF as highlighted in the WMS (paragraph numbers relate to the December 2023 NPPF). A fuller review of the NPPF is anticipated later this year to make the changes set out in the Levelling Up and Regeneration Act (LURA), including the introduction of National Development Management Policies (NDMP). Members will be updated in due course.

1. Local Housing Need

- Paragraph 1 states that preparing and maintaining up-to-date plans should be seen as a priority in meeting the objective of providing “*sufficient*” housing and other development in a sustainable manner.
- A new overall aim is set out at paragraph 60 “*to meet as much of an area’s identified housing need as possible*”.
- The standard method calculation (using household projections plus an uplift based on affordability) has not been amended but para 61 now makes clear that this assessment of housing need is an “*advisory starting-point*” for establishing a housing requirement in a plan.
- Para 61 still says that there may be exceptional circumstances, including relating to the particular demographic characteristics of an area, that justify using an alternative approach to the standard method. However, a new footnote hints at how rare this is likely to be, giving the example of “*islands with no land bridge that have a significant proportion of elderly residents*”.
- In para 63, the list of specific groups for which the housing need has to be established has been expanded to incorporate “*those who require retirement housing, housing with care and care homes*”.

Implications for Waverley

- The WMS states the Government’s view that “*There is now no excuse for local authorities not rapidly adopting ambitious plans. The more plans adopted quickly, the more homes delivered quickly - and we have created the right incentives for rapid plan adoption.*” This endorses the Council’s decision to begin work on a new Local Plan, and the ambitious timetable to adopt it by the end of 2027. The Council has expressed interest in being a frontrunner for the preparation of a new style Local Plan.
- The standard method calculation of Local Housing Need has never been a mandatory housing target and the changes to the NPPF therefore clarify rather than change

national policy. A Housing and Economic Development Needs Assessment (HEDNA) has been commissioned as part of the evidence base for the new Local Plan. The first stage involves establishing whether there is any justification for using an alternative to the standard method to assess housing need as the starting point.

- While the Council should plan positively to meet as much of an area's identified need as possible, the changes to the NPPF are helpful in emphasising that the housing requirement in the Local Plan should be based on an assessment of the amount of development that can be accommodated sustainably within environmental, policy, and infrastructure constraints. A Land Availability Assessment (LAA) is being undertaken to identify a future supply of land which is suitable, available and achievable for housing and economic development uses over the plan period. This will include assessing sites put forward in response to the current 'call-for-sites', which closes at the end of March 2024. The LAA, together with the consideration of strategic opportunities and constraints through the assessment of alternative spatial strategies, will help to justify an appropriate housing requirement for the new Local Plan.

2. Green Belt

- Para 145 sets out the policy on altering Green Belt boundaries. It says that *"Once established, there is no requirement for Green Belt boundaries to be reviewed or changed when plans are being prepared or updated. Authorities may choose to review and alter Green Belt boundaries where exceptional circumstances are fully evidenced and justified, in which case proposals for changes should be made only through the plan-making process."*

Implications for Waverley

- This is a change that has attracted a lot of attention as it removes the implied requirement that, in considering the ability to meet development needs, a LPA should review Green Belt boundaries to assess whether any land could be released. This resulted in some authorities halting progress on their local plan or trying to back-track on proposed allocations within the GB. However, it remains the case that a LPA can change GB boundaries through its local plan in exceptional circumstances. This issue will need to be considered through the new Local Plan.

3. Density

- Para 130 explains that, when applying pre-existing NPPF policies designed to make effective use of land, *"significant uplifts in the average density of residential development may be inappropriate if the resulting built form would be wholly out of character with the existing area"*. These circumstances should be evidenced through an authority-wide design code.
- Para 124 (e) indicates that planning policies and decision should support opportunities to use the airspace above existing residential and commercial premises for new homes, including allowing *"mansard roof extensions on suitable properties where their external appearance harmonises with the original building..."*.

Implications for Waverley

- In view of the GB, National Landscape (previously AONB) and other constraints on development in the countryside, the focus of the Local Plan is likely to remain on

making effective use of land within the existing towns and villages. In some instances an increase in the average density of residential development may be positive in creating more sustainable places and encouraging regeneration. However, the change to the NPPF strengthens the Council's hand in refusing developments where a 'significant' uplift in density results in a built form that would be wholly out of character with the existing area, provided this is supported by design codes. The Council will be preparing authority-wide design codes as a supplementary plan alongside the Local Plan (existing design statements will form part of the evidence base). The new provision in para 130 will not be triggered until a design code is in place but this will not prevent the Council continuing to apply policies and guidance including the national model design code to ensure that the built form of a new development is appropriate having regard to the character of the area.

- The focus on mansard roof extensions is odd but is not considered to have significant implications for Waverley given that opportunities for this type of development are likely to be mainly within the town centres, where conservation area status and/or listed building designation will help the Council ensure that roof extensions are appropriately controlled and designed.

4. Five-year housing land supply (5YHLS)

- Para 76 removes the requirement for LPAs with an up-to-date development plan to update their five-year land supply annually. This applies where a plan is less than 5-years old and identified a 5YHLS when it was examined.
- The requirement to add a minimum of 5% buffer to the supply of deliverable sites has gone, but the requirement for a 20% buffer if there has been significant under-delivery in the previous three years (as measured by the 'housing delivery test') remains in paras 77 and 79. This 20% buffer will be added where delivery is lower than 85% if a council does not have an up-to-date plan.
- Para 226 states that councils with a plan at Regulation 18 stage or further (incorporating a policy map and proposed housing allocations) will only need to demonstrate a four-year housing land supply, rather than five year. This only lasts until 18 December 2025.

Implications for Waverley

- Waverley will not benefit from para 76 until a new local plan is adopted. This is because the plan that establishes housing requirements is LPP1, which is over 5 years old. It is the main reason that the Council resolved to update the Local Plan as quickly as possible.
- The removal of buffers applies to Waverley because the Council has met the housing delivery test, with housing completions in the past three years having been 115% of the identified requirement. This improves the housing land supply position, but the Council can still only demonstrate a 3.5 rather than 5YHLS. This is in part because, until a new Local Plan is adopted, the Council must use the 'standard method' assessment of local housing need (currently 713 dwellings pa) rather than the LPP1 requirement of 590 pa.
- Waverley is unlikely to benefit significantly from para 226, which is intended to reward councils at an advanced stage of plan-making. The Local Development Scheme

indicates that a draft Regulation 18 Plan new Local Plan with a policy map and housing allocations could be prepared by summer 2025. This would allow para 226 to apply, at the most, for six months.

5. Unmet housing need

- The standard method incorporates an 35% uplift to the calculated housing need for the 20 largest cities and urban centres. The new NPPF para 62 states that *“this uplift should be accommodated within those cities and urban centres themselves except where there are voluntary cross boundary redistribution agreements in place, or where it would conflict with the policies in this Framework”*. A footnote explains that, in doing so, *“strategic policies should promote an effective use of land and optimise site densities ... to ensure that homes are built in the right places, to prioritise brownfield and other under-utilised urban sites, to utilise existing infrastructure, and to allow people to live near the services they rely on, making travel patterns more sustainable”*.

Implications for Waverley

- This has no implications for Waverley as it does not adjoin one of the identified cities/urban areas.

6. Protection for Neighbourhood Plans

- Paragraph 14 has been amended to apply to neighbourhood plans made within the past five as opposed to two years. This means that where the presumption of sustainable development (‘tilted balance’) applies, and development would conflict with a neighbourhood plan that is less than five years old and allocates at least one housing site *“the adverse impact for granting planning permission is likely to significantly and demonstrably outweigh the benefits”*. The Government intends this change to give more NPs protection from speculative development when a council is unable to demonstrate a 5YHLS.

Implications for Waverley

- This is a significant change which the Council supported in its response to consultation on the proposed changes to the NPPF. It will apply to Farnham (NP made 3/4/20), Chiddingfold (24/8/21), and Bramley (13/1/22). The following draft NPs allocate sites and will therefore benefit from para 14 once they are made in 2024: Cranleigh (Decision to accept Examiner’s recommendations made, referendum pending); Elstead and Weyburn (Decision to accept Examiner’s recommendations made, referendum pending). Other made NPs (Godalming, Haslemere, Witley, Ewhurst & Ellens Green, and Alfold) do not include housing allocations, so cannot benefit from para 14.
- A planning application must be determined in accordance with the development plan and any national development management policies, taken together, unless material considerations strongly indicate otherwise. Where the ‘tilted balance’ in NPPF para 11(d) is triggered because a 5YHLS cannot be demonstrated, the council will still need to assess the weight to be given to development plan policies, including whether or not they are in or out-of-date. Para 14 is clear that a NP that is less than 5 years old can be given significant weight and that a conflict with it can be treated as an adverse

impact that is likely to significantly and demonstrably outweigh the benefits arising from a development. This change is very welcome but does not mean that all NP policies will prevail in all circumstances as there may still be instances where 'material considerations strongly indicate otherwise'.

7. Supporting community-led housing

- The previous para 72 policy supporting development of entry-level exception sites suitable for first time buyers/ renters (but not in the National Landscape (AONB) or Green Belt) has been replaced by para 73 relating to exception sites for 'community-led' development on sites that would not otherwise be suitable as rural exception sites. A proportion of market homes may be allowed at the council's discretion, for example where essential to enable the delivery of affordable units. Sites should 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 (habitat sites, SSSIs, Green Belt, AONB etc).
- The footnote states that community-led development exception sites should not be larger than one hectare in size or exceed 5% of the size of the existing settlement. Annex 2 of the NPPF defines community-led developments as *"A development instigated and taken forward by a not-for-profit organisation set up and run primarily for the purpose of meeting the housing needs of its members and the wider local community, rather than being a primarily commercial enterprise. The organisation is created, managed and democratically controlled by its members. It may take any one of various legal forms including a community land trust, housing co-operative and community benefit society. Membership of the organisation is open to all beneficiaries and prospective beneficiaries of that organisation. The organisation should own, manage or steward the homes in a manner consistent with its purpose, for example through a mutually supported arrangement with a Registered Provider of Social Housing. The benefits of the development to the specified community should be clearly defined and consideration given to how these benefits can be protected over time, including in the event of the organisation being wound up."*

Implications for Waverley

- The shift from entry-level exception sites for open market housing to community-led housing is welcome. Haslemere and Farnham have emerging Community Led Housing Trusts, where groups are keen to develop a small, local needs affordable housing scheme. Rural settlements can use the Rural Exceptions Sites policy AHN2 to support local needs housing, but this mechanism is not available in the larger settlements. Surrey Community Action previously employed a Community Led Housing Project Officer to support local groups although that post has been empty for some time. Officers are currently looking at a model English Rural Housing Association have used in Kent where they Community Land Trust leases affordable properties to English Rural who manage the properties. This might be a helpful approach for new Community Land Trusts.

8. Beauty and placemaking

- Beauty and a requirement for beautiful design are mentioned in several more places in the revised NPPF than in the September 2023 version. Para 138 highlights local design codes as the primary means of improving design and para 140 regarding conditions now states that to ensure the quality of developments is not diminished over the course of construction, LPAs should refer to “*clear and accurate plans and drawings which provide visual clarity about the design of the development*” when seeking to control that element of a scheme and “*are clear about the approved use of materials*”.

Implications for Waverley

- The emphasis on design quality is welcomed (notwithstanding issues over the highly subjective notion of ‘beauty’). It will support the Council in seeking to negotiate high quality design and ensuring that what is agreed is actually built.

9. Other changes to note:

- **Energy efficiency in the adaptation of existing buildings.** A new para 164 says that LPAs “*should give significant weight to the need to support energy efficiency and low carbon heating improvements to existing buildings, both domestic and non-domestic (including through installation of heat pumps and solar panels where these do not already benefit from permitted development rights). Where the proposals would affect conservation areas, listed buildings or other relevant designated heritage assets, local planning authorities should also apply the policies set out in chapter 16 of this Framework*”.
- **Consideration of availability of land for food production.** Para 181 says that plans should allocate land with the least environmental or amenity value, where consistent with other policies in the Framework. This has been expanded with a new footnote (FN62) saying that the availability of agricultural land used for food production should be considered, alongside the other policies, when deciding what sites are most appropriate for development. This follows concerns regarding the impact of losing farmland to uses such as solar farms.

10. Some changes that didn’t happen:

The Royal Town Planning Institute has highlighted some of the Government’s December 2022 proposals that have not materialised (yet):

- The Duty to Cooperate in preparing local plans remains in the NPPF.
- Retention of the test of soundness that local plans must be ‘justified’.
- No revisions to place more weight on the provision of homes for social rent, despite a question on this topic.
- Nothing on methods and measures for carbon impact assessment, nature-based adaptation, or climate change adaptation more generally. The latter may well be dealt with in the NDMPs, which the LURA will require have regard to climate change.

- Nothing on the build-out of houses, with the government waiting until the Competition and Markets Authority has published its housebuilding market study.
- The National Development Management Policies have yet to materialise.

The Secretary of State's WMS suggests that further changes will be coming through additional policy and guidance.