

PLANNING POLICY AND LOCAL PLAN COMMITTEE

16 SEPTEMBER 2023

REPORT OF THE DIRECTOR OF PLANNING

A.2 GOVERNMENT CONSULTATION: PROPOSED REFORMS TO THE NATIONAL PLANNING POLICY FRAMEWORK AND OTHER CHANGES TO THE PLANNING SYSTEM – TENDRING DISTRICT COUNCIL'S RESPONSE

(Report prepared by Paul Woods)

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT

To invite discussion and seek agreement from the Planning Policy and Local Plan Committee to Tendring District Council's formal response to the Government's consultation on proposed reforms to the National Planning Policy Framework and other changes to the planning system.

EXECUTIVE SUMMARY

As discussed in the previous agenda item A.1, the new Government has announced a series of proposed changes to the NPPF and the wider planning system. These changes are the subject of a public consultation, running for eight weeks from 30th July – 24th September 2024.

The consultation material consists of 15 chapters of explanatory text outlining the proposed changes, and 106 focussed questions about the proposals. The full consultation document is included at Appendix 1, with the Officers' suggested response to each question included in bold text for easy identification and for Members' consideration.

The key concerns and ideas that Officers have raised throughout the suggested response include:

- The imposition of top-down housebuilding targets on a mandatory basis with no scope for local circumstances, constraints or exceptional circumstances to be taken into account;
- The significant practical implications of reintroducing the requirement to demonstrate a five-year housing land supply at the same time as dramatically increasing housing targets, which creates a 'cliff-edge' scenario for the Council come January 2026 and looks realistically unachievable;
- The need for Government to provide financial support to Local Authorities to deliver the required infrastructure to facilitate housing development of the scale proposed;
- The need for financial support to deliver a greater amount of affordable and social housing as part of such a step-change in overall housing delivery; and
- The importance of retaining local control of large-scale infrastructure projects, rather than expanding the NSIP regime.

Many of the questions in the consultation relate to 'Green Belt' policy, which is of no direct relevance to Tendring, and it is suggested that no comments are offered in response to those matters.

RECOMMENDATION

That the Planning Policy and Local Plan Committee:

- a) notes the content of this report;**
- b) endorses the draft response to the Government consultation, as attached at Appendix 1; and**
- c) recommends to the Portfolio Holder for Housing and Planning, that the draft response, together with any agreed changes to it made at this meeting, be approved and be submitted to the Ministry of Housing, Communities and Local Government before the close of the consultation on 24th September 2024.**

PART 2 – IMPLICATIONS OF THE DECISION

DELIVERING PRIORITIES

Ensuring the District has an up-to-date Local Plan is a high priority for the Council and the review of the Local Plan is identified as a priority within the Corporate Plan (Our Vision) 2024-2028. It is also the goal of government for local planning authorities to deliver sustainable development and coordinated provision of housing, jobs and infrastructure whilst best protecting and enhancing the natural and built environment.

There is a requirement to review and update Local Plans every five years which, for Tendring, means updating and adopting the Local Plan before January 2026 – the fifth anniversary of TDC adopting the shared Section 1 Local Plan for North Essex.

The change of Government in July 2024 and its proposed changes to the National Planning Policy Framework (NPPF) are likely to require all of the work already undertaken for the Local Plan Review to be revisited – with an expectation that the number of new homes needing to be planned for could double.

Whilst there are no guarantees the Government will make any changes in response to concerns raised by this Council and others, the implications for Tendring are significant and far-reaching and it is there important for the Council to respond to the consultation as it could be the only opportunity to influence the approach before the proposals are finalised.

RESOURCES AND RISK

The proposed response to the Government consultation has been prepared by Officers in the Council's Planning Policy Team having carefully considered the potential implications – the main ones of which are highlighted in the separate Report A.1.

As it stands, the Government's proposed changes to the NPPF are expected to impact significantly on the work programme and timetable for the Local Plan review to the extent that it is highly unlikely the Council will be in a position to fully adopt an updated Local Plan, as had originally been intended, before January 2026. The proposed response to the consultation stresses that councils should not be penalised if their Local Plans become out of date due to external factors such as the General Election and subsequent proposed changes to the planning system.

The Government is looking to re-introduce the requirement to identify, on an annual basis, a supply of housing land sufficient to deliver five years' worth of housing against the mandatory targets. If that policy is carried through, there is a possibility of Tendring District Council going from a position of having a healthy five-year supply against its current target of 550 homes a year to having a shortfall against a requirement of 1,043 literally overnight in January 2026. Therefore unless the Council identifies small to medium-sized sites through the Local Plan review with the potential to deliver homes in the shorter-term, it could struggle to meet the five-year requirement and could once again be vulnerable to speculative housing proposals where there would be a presumption in favour of sustainable development to address the shortfall and a risk of planning by appeal – with all of its associated costs and reputational risks.

Whilst there are no guarantees that the Government will make any changes in response to the Council's comments on the NPPF consultation, this could be the Council's only opportunity to highlight its concerns and influence the outcome before the NPPF changes are finalised.

LEGAL

The Government consultation proposes a series of changes to the National Planning Policy Framework, which governs the process of preparing a Local Plan and in taking planning decisions. The NPPF can be updated by Government without the need for additional primary legislation, and the changes are expected to be brought in in the months following the close of the consultation.

Additional changes to the planning system are proposed, some of which will necessitate changes to legislation. These changes may need to be debated by Parliament and will likely take longer to implement. This phased approach to reforming the planning system creates greater uncertainty for the Council and other stakeholders in the planning process.

OTHER IMPLICATIONS

Area or Ward affected: All wards – with a likelihood that most parts of the District may have to play a role in the delivery of new homes to meet the Government's proposed mandatory housebuilding targets if they are confirmed.

Consultation/Public Engagement: None. This consultation is being carried out by the Government, and the Council is a consultee.

PART 3 – SUPPORTING INFORMATION

The new Government is conducting a consultation on their proposed approach to revising the National Planning Policy Framework and a series of wider policy proposals in relation to increasing planning fees, local plan intervention criteria, and appropriate thresholds for certain Nationally Significant Infrastructure Projects (NSIPs).

The consultation runs from Tuesday 30th July 2024 and closes at 11.45pm on Tuesday 24th September 2024.

Throughout the consultation document, the Government asks a series of questions about specific proposals and changes to the NPPF. The full response can be found at Appendix 1, and a summary of each section is included below. A tracked changes version of the NPPF is linked as a background document.

Chapter 1 – Introduction

This section sets out the Government's intention to improve the prosperity of the country through sustained economic growth, and states that decisive reform is urgently needed in the planning system. It summarises the objectives of the subsequent chapters. There are no questions about this chapter.

Chapter 2 – Policy objectives

This chapter reiterates the Government's objective to build 1.5 million homes over the next five years, as well as supporting crucial energy, water and commercial projects. There are no questions about this chapter.

Chapter 3 – Planning for the homes we need

The first proposal in this chapter is to reverse the changes made to the NPPF by the previous Government in December 2023. The new government intends to make it very clear that the standard method should be used to assess housing need, rather than it being an 'advisory starting point'. Advice TDC have received from our demographics consultants indicated that under the existing system there would not be grounds to challenge the standard method or argue for an alternative approach, so the change of wording here has little practical impact on Tendring. The new standard method (and the higher housing requirement) is discussed in the next chapter.

This section then touches briefly on the 'urban uplift', which did not apply to Tendring. However, by removing this uplift, rural areas such as Tendring will have to accommodate a greater proportion of the national housing target.

The document proposes reversing changes made to the NPPF in December that acknowledges that significant uplift in density might be inappropriate in certain areas. The proposed response

emphasises that while some areas could accommodate higher densities, rural areas of the countryside should be protected through national policy.

The Government proposes to strengthen the presumption in favour of sustainable development, reintroduce the requirement to demonstrate a 5-year supply of housing land on an ongoing basis, and restore the 5% buffer. As discussed in the previous report, this would present a cliff-edge situation for Tendring whereby the Council could demonstrate a 5-year supply on one day and not the next. This would open the door to speculative and unwanted developments, and the proposed response to the questions raises this concern.

The proposed changes also cover cross-boundary cooperation. This is something that TDC has done successfully over many years, working collaboratively with Colchester City Council and Braintree District Council on the shared Section 1 Local Plan, and with Essex County Council on a wide variety of planning matters.

Chapter 4 – A new Standard Method for assessing housing needs

This chapter focusses specifically on the way that housing needs are calculated and proposes a new standard method calculation that results in an extremely high annual housing requirement for Tendring. The proposed responses in this chapter question the validity of this new method, and the realistic deliverability of such a high number.

Chapter 5 – Brownfield, grey belt and the Green Belt

This chapter focusses primarily on the proposal to relax rules to allow the redevelopment of brownfield (previously developed) land within the Green Belt (so-called 'grey belt' land). As Tendring does not include any land designated as Green Belt, the Council does not need to comment on the specifics of this policy – although it will be important that any proposals that seek to encourage redevelopment of brownfield land also consider the impact on rural settings and the risk of allowing housing in inappropriate locations without access to services, infrastructure, or sustainable transport.

Chapter 6 – Delivering affordable, well-designed homes and places

This chapter opens by discussing affordable housing, and the Government's intention to increase the delivery of homes for social rent. The proposal is to require Local Authorities to set their own target for social housing, based on their housing needs assessment – but does not indicate whether any financial support will be made available to enable councils or registered providers to deliver these homes.

The consultation then proposes removing specific requirements about affordable housing from the NPPF – the requirement to deliver at least 10% of homes on major sites as 'affordable home ownership', and the requirement that a minimum of 25% of affordable homes should be 'First Homes'. These requirements complicate the negotiations around affordable homes, and lead to a confusing policy situation. The specific types of affordable housing to be prioritised can instead be established locally, based on the Council's own assessments.

There is a proposal for a national policy calling for a mix of dwelling types, sizes and tenures in new developments – something that Tendring's Local Plan already does. Similarly, a proposal to support the development of exclusively or predominantly affordable housing schemes broadly reflects the aims of the Local Plan's rural exception sites policy.

The Government are considering changing the definition of 'affordable housing for rent' in order to make it easier for more organisations to develop new affordable homes. For many people, particularly in rural communities, 'affordable housing' is still not genuinely affordable – and greater support will be required from central government to facilitate the delivery of more social housing.

The current NPPF requires Local Plans to allocate for at least 10% of their total housing requirement to be met on small sites. The consultation document states that many Councils do not achieve this and proposes to remove the current caveat that there may be places where strong reasons exist which means it cannot be achieved. A key challenge when delivering smaller sites, as Tendring has experienced in recent years, is securing the delivery of comprehensive and coherent infrastructure – with developer contributions collected in a piecemeal fashion as various sites come forward. In rural locations, such as the villages in Tendring, small extensions to the settlement boundary, following logical field boundaries, often result in sites slightly larger than 1ha (which fails to meet the definition of 'small sites'). Allowing a degree of flexibility in defining small sites would make it easier for the Council to meet this requirement and increase opportunities for small and medium house builders.

Chapter 7 – Building infrastructure to grow the economy

This chapter begins by identifying particular industries within the modern economy that will benefit from greater support in the NPPF, with the expectation that suitable sites are identified in Local Plans. These proposals include freight, logistics and global trade, as well as data centres, laboratories and digital infrastructure – all of which are already a focus within Tendring through the Freeport East designation and the knowledge-based employment proposed at the Garden Community. Given advances in technology around food production, and concerns around the loss of agricultural land to make way for housing development, the proposed response suggests 'AgroSciences' as a possible sector that could benefit from particular support through national policy.

The proposals suggest that certain developments, such as data centre, 'gigafactories' and/or laboratories could be considered as part of the Nationally Significant Infrastructure Project (NSIP) regime – in the same way large renewable energy proposals are currently being considered. This would erode the amount of influence the Council has in these decisions, and could impact the delivery of local strategies, and is therefore resisted. Further support from central Government to attract such investment is suggested as a more effective means of achieving this growth.

In order to attract inward investment in the District, the proposed response suggests that greater government support for capacity in local planning and economic growth teams would bring the most benefit.

Chapter 8 – Delivering community needs

The consultation proposes additional wording to the NPPF to make it clear that significant weight should be placed on the importance of facilitating new, expanded or upgraded public service infrastructure. Specific reference will be made to the provision of early years and post-16 education, in addition to school places, in national policy.

The Government proposes a move from the 'predict and provide' model of transport planning to a 'vision-led' approach which will seek to make new developments more sustainable. While the Council has a track record of working positively with ECC to develop vision and strategy to increase the use

of sustainable transport, the immediate impact of new developments on existing communities should not be ignored – and the proposed response makes it clear that appropriate upgrades to the highways network should still be made to mitigate the impacts of new development.

In order to promote healthier communities, the Government is considering approaches such as controlling hot food takeaways near schools. The proposed response emphasises the need for such interventions to be evidence based, and to be implemented with the support of local communities to ensure they address the right issues in the right places.

Chapter 9 – Supporting green energy and the environment

The Government is proposing to bring onshore wind back into the NSIP regime, removing control from local councils. The proposed response highlights the concern that those most affected by these proposals have very little influence in the process, and that the benefits of such schemes often aren't experienced by those most impacted. There is a proposal to increase the expectation that Councils should support other schemes for renewable energy, and the response emphasises that these must be delivered in the right locations and in the right way – and that negative impacts (such as environmental harms) should not be ignored.

In light of the advancements in technology since the NSIPs regime was introduced, the thresholds above which wind and solar projects are deemed to be 'Nationally Significant' will be increased, allowing local authorities to determine schemes that fall under this threshold. The proposed response supports this, as it will increase the amount of local control of smaller schemes – but calls for greater resourcing of local authority planning departments to ensure the expertise are available to determine these applications in a timely and effective manner.

Questions are asked about the state of national policy with regards to climate change mitigation and adaptation, the challenges to carbon accounting through the planning process, and issues around policy for managing flood risk. The proposed response suggests a national approach to climate resilience in planning, which would save time and expense during the preparation of local planning policies. In order to effectively monitor the carbon footprint through the planning process, the proposed response calls for greater resourcing for council planning teams in order to achieve this.

In light of the proposed acceleration of housebuilding, and the impact this will have on Tendring's agricultural land, the proposed response highlights the importance of innovation in this area and calls for support for the farming community to increase the nation's food security.

The proposals seek to move a number of water infrastructure projects into the NSIP regime, removing control of these developments from local authorities. The proposed response makes clear that such proposals, while important, should be considered and determined locally.

Chapter 10 – Changes to local plan intervention criteria

The consultation proposes either updating the criteria that establishes when the Secretary of State can intervene in the local plan process or removing the criteria altogether to allow a discretionary process. The proposed response emphasises the importance a proportionate and flexible approach and argues that councils such as TDC (who had been reviewing their Local Plan at the right time but have been disadvantaged and delayed by the new Government's significant changes to the planning system) should not be penalised for circumstances that were outside of its control. Removing the

criteria altogether would create less certainty, at a time of significant change and upheaval in the planning system and should not be considered.

Chapter 11 – Changes to planning application fees and cost recovery for local authorities related to Nationally Significant Infrastructure Projects

The proposals in this chapter suggest increasing householder planning fees to a level that broadly matches the cost of determining these applications. Although a fee of £528 is suggested (estimated at only 1% of the overall cost of undertaking most householder developments), later proposals in this chapter suggest that councils will be able to vary these fees locally if they can demonstrate that they do not meet the full costs of determining such applications. A system where national fees can be varied where necessary would be preferred over a system that requires every local authority to determine and justify their own fees, which would carry a significant burden of evidence and be open to challenge from developers who may be charged less elsewhere in the country.

The proposals suggest that planning fees could be increased beyond just cost recovery for determining the application, and also be used to fund other planning services (such as plan preparation, heritage and conservation, enforcement etc.) However, there is the risk that in places where development viability is already used to negotiate lower developer contributions, the increased planning fees would simply result in lower level of contributions collected to fund infrastructure delivery.

Chapter 12 – The future of planning policy and plan making

This chapter explains the proposed transitional arrangements for Local Plans at an advanced stage of preparation. They do not apply to Tendring's Local Plan Review, which is at a comparatively early stage – and the proposed response emphasises the need for transitional protection for authorities like TDC who face a cliff edge situation when their current Local Plan reaches 5 years old. Councils who have been working in good faith to keep their Local Plan up to date should not be penalised for circumstances (such as the General Election and subsequent proposed planning reforms) that were outside of their control.

APPENDICES

Appendix 1 – Full Consultation document, including suggested TDC response

Background Documents

National Planning Policy Framework: draft text for consultation ([link](#))