



**REGULATORY
SERVICES
COMMITTEE**

REPORT

15 December 2011

Subject Heading:	Draft National Planning Policy Framework
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Policy context:	'Living Ambition' agenda Local Development Framework
Financial summary:	None

The subject matter of this report deals with the following Council Objectives

Ensuring a clean, safe and green borough	<input checked="" type="checkbox"/>
Championing education and learning for all	<input type="checkbox"/>
Providing economic, social and cultural activity in thriving towns and villages	<input checked="" type="checkbox"/>
Value and enhance the life of our residents	<input checked="" type="checkbox"/>
Delivering high customer satisfaction and a stable council tax	<input type="checkbox"/>

SUMMARY

On 26 October 2011 Cabinet considered a report on the draft National Planning Policy Framework (NPPF). The Framework, which is considerably more concise than existing national planning policies is seen by Government as providing the opportunity for people and communities to be involved in planning. It is a key part of the Government's wider 'Localism' agenda.

Cabinet agreed three recommendations in the report:

1. To welcome the overall approach in the draft NPPF.
2. Agree that comments in the Cabinet report be submitted to Government as this Council's response to the draft NPPF.
3. Recommend to this Regulatory Services Committee that the draft NPPF can be afforded weight, in particular when schemes do not accord with the Havering Local Development Framework or the Local Plan is silent (ie indeterminate) provided development will not have unacceptable adverse social or environmental impacts.

This report recommends that Recommendation 3 of the Cabinet report should be agreed.

RECOMMENDATIONS

That Committee agree that the draft National Planning Policy Framework can be a material consideration although the weight to be given to it will be a matter for the decision maker's planning judgement in each particular case. Further that it can be afforded weight, in particular when schemes do not accord with the Havering Local Development Framework or the Local Plan is silent (ie indeterminate) provided development will not have unacceptable adverse social or environmental impacts.

REPORT DETAIL

1. Reform of the planning system has been identified by Government as one of the elements of its 'Planning for Growth' agenda, which seeks to identify regulations or policies that impede economic growth. The Government pledged in its pre-election policy paper 'Open Source Planning' to scrap what it saw as the overly bureaucratic planning regime and indicated an early intention to increase the speed and scale of change. Additionally, various Government reviews have set out ambitious proposals to ensure that the planning system does everything possible to support sustainable economic growth alongside housing supply.
2. The Government wishes localism and community to be at the heart of its changes to the planning system.
3. The current national planning system is made up of more than 25 Planning Policy Statements (PPSs) and guidance and explanatory notes that

collectively total more than 1,000 pages. All Local Development Frameworks (LDFs) must conform to these whilst in London LDFs must also be in general conformity with the Mayor's London Plan (2011). Whilst some of the existing Government policy and guidance documents are relatively recent, others are several years old.

4. In July 2011, the Government published for consultation a draft 'National Planning Policy Framework' ('the draft Framework'). It has 58 pages compared to the extensive documents it is intended to replace.
5. The draft Framework has been the subject of extensive media coverage particularly in its potential implications for the Green Belt and countryside.
6. The documents are available at the following Government website :

[http:// www.communities.gov.uk/documents/planningandbuilding/pdf1951811.pdf](http://www.communities.gov.uk/documents/planningandbuilding/pdf1951811.pdf)
7. Government hopes to issue the final Framework later this year/early 2012.

Cabinet's Consideration of Issues and Consultation Response

On 26 October 2011 Cabinet considered the report attached here as Appendix 1. The report is also available electronically through this link:

<http://democracy.havering.gov.uk/documents/s1757/item10%20draft%20planning%20policy.pdf>

That appended report:

- Highlighted the draft National Planning Policy Framework's key elements.
- Reviewed the key issues for Havering and proposed a range of comments in response to the Government's consultation.
- Provided views of some other stakeholders.
- Considered the implications for Havering when dealing with current and forthcoming planning applications.

Cabinet agreed that the comments set out in Section 4 and Appendix 1 of the appended Cabinet report be submitted to Government as Havering's formal response to the Consultation.

The Cabinet report also reviewed (at its paragraphs 32-39) the issues raised for development management.

These are reproduced below:

Development management

8. The draft Framework states that the primary objective of development management is to foster the delivery of sustainable development, not to hinder or prevent development. Local Authorities should:

- approach development management decisions positively – looking for solutions rather than problems so that applications can be approved wherever it is practical to do so.
 - attach significant weight to the benefits of economic and housing growth.
 - influence development proposals to achieve quality outcomes; and
 - enable the delivery of sustainable development proposals.
9. The draft Framework encourages early engagement to improve the efficiency and effectiveness of the planning application system. It recommends Local Authorities actively promote any pre-application services that they offer as well as encouraging applicants not already required to do so by law to engage with the local community before submitting their applications.
10. Local Plans, incorporating neighbourhood plans where relevant, will be the starting point for the determination of any planning application as the planning system will remain plan-led. In assessing and determining development proposals, local planning authorities should apply the presumption in favour of sustainable development.
11. Local planning authorities should consider using Local Development Orders to relax planning controls for particular areas or categories of development, where the impacts would be acceptable, and in particular where this would boost enterprise and growth. Planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so.
12. Local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. As before, planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition.
13. Planning obligations should only be sought where they meet all of the following tests:
- Necessary to make the development acceptable in planning terms
 - Directly related to the development; and
 - Fairly and reasonably related in scale and kind of development.
14. Planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.
15. Local planning authorities should avoid unnecessary conditions or obligations, particularly when this would undermine the viability of development proposals.

At section (j) the appended Cabinet report discussed what the draft Framework would mean for development management in Havering. This is duplicated below

(j) What the Framework means for development management and planning decisions in Havering

16. The draft Framework makes clear that in the absence of an up to date Local Plan, consistent with the Framework, planning applications should be determined in accordance with the Framework, including the presumption in favour of sustainable development. Since the publication of the draft Framework, the Planning Inspectorate has issued guidance on this matter for its Inspectors. It states that the draft Framework is 'capable of being a material consideration although the weight to be given to it will be a matter for the decision maker's planning judgement in each particular case. The current Planning Policy Statements, Guidance notes and Circulars remain in place until cancelled.'
17. Recognition of the role of negotiation and pre-application discussions within the development management process is welcomed.
18. There is a risk that the concise nature of the Framework and the absence of a clear and workable definition of sustainable development along with its greater room for subjective interpretation of policy and material planning considerations, may lead to more legal challenges and in some cases, a greater tendency towards planning 'through case law'.
19. The Framework's presumption in favour of sustainable development is likely to increase the number of cases where mediocre proposals have to be negotiated to a better quality position rather than be refused, which will impact on resources.
20. The draft Framework does not address the issue of enforcement and this has been highlighted as a major concern.

The Cabinet recommendation

21. Notwithstanding the above considerations, Cabinet agreed that there is merit in the Council reflecting the draft Framework in its development management role through Regulatory Services Committee as far as it is able, and appropriate, to do so.
22. Therefore, the Cabinet report included a specific recommendation (3) about the Framework being taken into account for development control purposes in the interim period before the Local Plan that will replace the LDF is available.
23. Staff concur with Cabinet's recommendation 3 in that the draft National Planning Policy Framework can be afforded weight. At this draft stage of the Framework such weight will be limited but will particularly apply when

schemes do not accord with the Havering LDF or the Local Plan is silent, otherwise called indeterminate. In all cases this will be provided that the development concerned will not have unacceptable adverse social or environmental impacts.

IMPLICATIONS AND RISKS

Financial implications and risks:

The Government is responsible for the preparation of the National Planning Policy Framework and there are unlikely to be direct financial implications for the Council in this regard. The Government's current finance reforms may also overlap with issues raised by the Framework.

The draft Framework will need to be taken into account from now onwards when the Council is considering proposals for its own land.

If the Framework is published by the Government, then the Council will have to take it into account in the preparation of its replacement Local Development Framework (which will be the Havering Local Plan).

Legal implications and risks:

The provisions of the Planning and Compulsory Purchase Act 2004 cover the status of national planning policy in plan preparation and development management.

The draft National Planning Policy Framework is capable of being a consideration for planning decisions although the weight that can be attached to it for plan making and development management purposes is limited at this stage.

The Planning Inspectorate has said that 'the weight given to it will be a matter for the decision maker in each particular case. The current Planning Policy Statements, Guidance Notes and Circulars remain in place until cancelled'.

Human Resources implications and risks:

At this stage it is not possible to assess the detailed implications of the draft Framework. Staff in the Regeneration service will be responsible for the preparation of the Council's Local Plan which will replace the Havering Local Development Framework. Staff in the Development and Building Control service will have responsibility for implementing the Development Management aspects of the Framework.

Equalities implications and risks:

The draft Framework sets out planning policies that are intended to benefit everyone in the community. A fundamental aim of the Framework is to help create

mixed and inclusive communities. The Government sees the planning system as facilitating social interaction and it wants local planning authorities when implementing the Framework to involve all sections of the community.

The Government has published an extensive Impact Assessment as a companion document to the draft Framework. Under the heading Statutory Equality Duty, it concludes that the draft Framework will benefit everyone – communities, local councils and businesses – because national planning priorities will be more clearly understood across a wider range of people. The impact Assessment particularly highlights the significance of the Framework in this regard to different racial groups, disabled people and older people.

BACKGROUND PAPERS

1. Draft National Planning Policy Framework.
2. Cabinet report 26 October 2011.