

Consultation on the Draft National Planning Policy Framework

Response of Sevenoaks District Council

Sevenoaks is a large, predominantly rural District lying to the south east of London. It has a population of 119,000 and contains no large towns; Sevenoaks, the largest town in the District has a population of approximately 22,000. The entire District lies within the Green Belt and 60% is within an AONB.

The District's Core Strategy was adopted in February of this year, following examination hearings in October 2010, and is therefore recent. The Council's priority now is to secure its effective implementation through a second DPD dealing with site allocations and development management policies, adopting supporting guidance in the form of SPDs and progressing the development of key sites. It is particularly keen to ensure the changes in national policy take place in a way that recognises the achievement of Districts that have recently adopted Core Strategies and does not require them to go back and carry out expensive and time consuming changes to existing plans, diverting attention from the task of implementation.

These initial comments provide a context for the District's comments on the draft document which are set out below on a section by section basis.

Introduction (paras 1-8)

In principle the simplification of national planning policy and its consolidation into one document is to be welcomed.

The Council considers that the same principle of simplification to remove unnecessary detail should also apply to the review of accompanying guidance so that the outcome of simplifying policy is not undermined by the shifting of detail into accompanying guidance documents.

To reduce uncertainty it would be helpful if the publication of the final NPPF could be accompanied by a list of guidance documents that are considered necessary, recognising that the content of these documents will be subject to later review.

Delivering Sustainable Development (paras 9-19)

The NPPF places great weight on the presumption in favour of sustainable development which, the Council notes, it equates with the content of the NPPF. The focus in considering planning applications will be whether the sustainability test is met yet in many cases this will not be clear as the NPPF is written in terms that support development unless there are overriding objections. In these cases the decision on whether the development is "sustainable" will require a judgement weighing up a range of issues rather than clearly point the way to a specific decision. If the wording remains as currently proposed it seems inevitable that more appeals will result revolving around whether the test is met.

Greater clarity could be achieved if para 15, which currently states that local plans will guide how the presumption is applied locally, is extended to state that such plans form the local expression of what development is sustainable in their area and that their policies will form the basis for local decision making.

Although para 19 states that the system is plan-led, in practice it may be less so for developments that do not accord with the plan, particularly where the presumption in favour is proposed to extend to situations where the plan is silent or indeterminate. The approach logically suggests that the presumption should apply to developments on which there are no relevant policies in the plan but applying this approach to indeterminacy could lead to avoidable debate over the weight to be given to plan policies that necessarily use criteria to assess development. Greater certainty could be achieved if the wording is amended to replace “silent or indeterminate” with “no relevant policies”.

Finally the Council notes that there is a great deal of repetition of the presumption throughout the remainder of the document. A short statement in this section that the presumption will apply to all development will avoid the need for this unnecessary repetition and reduce the overall length of the final document.

Plan Making (paras 20-52)

The wording in para 21 which allows for other DPDs, in addition to the Core Strategy, to be prepared where justified is supported and should cater for situations like Sevenoaks where the Council has followed previous guidance in concentrating on key issues for the Core Strategy and reserving matters of detail for other documents.

The text on SPDs (also in para 21) should be amended to incorporate the established principle that they should not be used to introduce or amend policies that should be included in a development plan, wording that is necessary because SPDs are not subject to the statutory procedures, including independent examination, that apply to development plans. This would provide a context for the statement that SPDs should not add to the ‘financial burdens’ on development. The District uses SPDs to provide guidance on the implementation of Core Strategy policy, including policy on developer contributions and affordable housing, but the “financial burden” is established through the Core Strategy not the SPD.

Additionally the suggestion that SPDs should only be necessary where they help bring forward sustainable development “at an accelerated rate” is unduly restrictive. SPDs have a valuable role in helping to ensure development is sustainable (e.g. through Design Guides) and should not be limited to accelerating development.

The Council is extremely concerned at the way para 26 is currently expressed. As drafted it gives no recognition to the status of existing plans, including those like Sevenoaks that have only recently been adopted. The definition of whether a plan is up to date is purely whether it is consistent with the Framework and where there is not an up to date plan it states that planning applications should be determined in accordance with the Framework. Given that the NPPF contains

changes to existing policy a rigid interpretation of this paragraph would render recently adopted plans out of date and undermine their value as a basis for decision making.

The Council was represented at the “London Two” workshop and welcomed the comments about the continued status of adopted development plans in determining planning applications and that policies rather than entire plans might be regarded as out of date. The NPPF does however need to be amended to reflect this position. Para 26 should be amended to incorporate positive recognition of the value of existing plans, particularly core strategies that have recently been found sound. It should state that such plans will continue to have particular weight in decision making due to their development plan status but the weight to be attached to adopted development plan policies will be lessened if they are not consistent with the NPPF.

Guidance is needed on how the proposed certificates of conformity will be implemented so that local authorities with adopted plans can make an informed decision on whether they should apply. Such guidance should incorporate flexibility and be supportive of Councils that have got on with producing and adopting plans. It should recognise that plans produced before the NPPF was published cannot be expected to comply word for word with the new document.

Paras 44-47 respond to the duty to cooperate in the Localism Bill and criticisms that have been made about the lack of strategic planning above District-level, yet the way this section as written is vague in terms of what Districts are expected to do and what the outcomes should be. Greater clarity is needed particularly given that compliance is to be part of a soundness test in examinations.

Para 51 on the relationship between neighbourhood plans and local plans needs to recognise that neighbourhood plans are voluntary and many communities will not choose to prepare them. In Sevenoaks there is currently limited support from parishes wishing to prepare neighbourhood plans. The NPPF should acknowledge that local plans prepared by District Councils will still have a role in setting out detailed policies and site allocations and that there is a potential role for non-statutory parish plans to be adopted as SPDs provided they are consistent with District-wide plans.

Development Management (paras 53-70)

Paras 62 and 63 when read together give reduced weight to development plans as they now sit alongside the general presumption in favour of development. Given that the Government wishes to see the presumption in favour of sustainable development incorporated into development plans these paragraphs could better be expressed as a presumption in favour of the development plan with the separate presumption in favour of sustainable development coming in to play when there is no relevant development plan policy.

There is no reference in this section to the status in decision making of emerging development plans, which is currently contained in the supplement to PPS1 and would be lost if it is not included in the NPPF. This guidance is valuable and

would be helpful to local authorities bringing forward new or amended plans consistent with the NPPF. It also helpfully clarifies the status of emerging plans for the benefits of users of the system.

Paras 67-70 should make reference to the Community Infrastructure Levy and its interaction with planning obligations.

Planning for Prosperity: Business and Economic development (paras 71-81)

The reference in para 75 to avoiding long term protection of employment land needs some qualification. In Sevenoaks as in many areas residential land is more valuable than employment land and consequently there is considerable pressure to release employment land including good quality sites that support the local economy. The District needs a clear policy to protect employment land if its local economy is also to be supported. Paragraph 75 also states that need for different land uses should be taken into account in considering alternative uses, which would suggest that sites can be protected where they are needed for employment use and a qualification should be introduced to state that sites should be protected where there is evidence that they are needed. Without such qualification the District's ability to maintain a stock of employment land to meet future needs will be threatened.

The Council has several comments on the town centre section:

- It does not re-introduce the needs test as promised in the Government's pre-election green paper "Open Source Planning". This test would assist in maintaining town centre viability and an amendment to introduce it is requested.
- The weight to be given to the sequential test in decision-making on planning applications should be clarified particularly where a sequentially preferable site exists. The text as drafted could be read as giving this very little weight. Existing policy in PPS4 (Policy EC17.1) allows for permission to be refused where the sequential test is not met and the development is contrary to an up to date development plan. The retention of this wording is supported but if that is not acceptable to the Government wording should be added to the effect that development would not be regarded as sustainable if it fails the sequential test.
- The requirement in PPS4 (Policy EC15.1) that developers and operators should demonstrate flexibility in terms of scale, format, parking and disaggregation in making sequential assessments is important in promoting the growth of town centres. This approach needs to be retained in the NPPF and is essential to ensure a balanced consideration of whether town centre and edge of centre sites are suitable as an alternative to out of centre.
- Commentators have expressed concern at the removal of offices from the town centre policy. Offices logically fit in to the town centre first approach given that they are major traffic generators and employees can contribute substantially to the town centre economy. It is considered that offices should be retained in the town centres policy as in PPS4.

In addition the NPPF should recognise the role of local and district centres, as defined in PPS4, which states that these can provide local facilities of an appropriate scale that can meet day-to-day needs whilst reducing the need to travel. The NPPF should clarify that certain aspects of the policy on town centres also applies to these smaller centres, for example 'defining a network of centres' and setting 'policies that make clear which uses will be permitted in such locations' (in para 76). The definitions of different types of centre from PPS4 should also be carried forward

Planning for Prosperity: Transport (paras 82-94)

The Council supports the deletion of maximum parking standards.

Planning for Prosperity: Communications Infrastructure (paras 95-99)

No comments on this section.

Planning for Prosperity: Minerals (paras 100-106)

This section largely reflects the existing guidance with the exception of the reference to the economy. There is concern that the guidance will lead to a significant increase in mineral extraction which by its very nature is not sustainable.

It would be helpful if the guidance referred to the Minerals Authority rather than the Local Authority. This would clarify that in some Districts, as is the case with Sevenoaks, the County Council has responsibility for Minerals Planning.

Planning for People: Housing (paras 107-113)

Introducing a 5 year supply plus 20% requirement will mean that Districts may have to release more land for housing than is required to meet the provision in their plan. The Council recognises that this will increase choice for developers but the need to identify more land may force Councils to accept the development of sites that are less suitable in planning terms. Additionally the "plus 20%" provision could hinder the development of important regeneration sites as there will be less incentive for developers to bring forward such sites if there is a wider choice of easier to develop Greenfield sites available as a result of the new requirement.

The Council considers that there should be provision in this section to explicitly enable planning authorities to prioritise the release of land for housing on planning grounds. This will enable priority to be given to brownfield land or other key sites that are important to the future planning of the area in the phasing of development.

A further potential issue with the five year supply is the treatment of viability. The Council recognises that sites will not be deliverable if development is not viable. However, it is concerned at the additional burden in terms of cost and staff resources that would result from a requirement for more detailed assessments of viability. A comprehensive assessment by Districts of the viability of every site in

the five year supply would be particularly onerous for Districts that have a large number of small sites, and may adversely impact upon the Council's programme for plan preparation which would be counterproductive in achieving the objective of bringing forward development. In Sevenoaks, as in many other areas, the five year supply is largely made up of sites put forward by developers who would not be promoting development if they thought it would be non-viable. Using developer intentions as an indicator of viability is a practical approach supported at the Core Strategy examination that could be integrated into the guidance. The Council understands that guidance is to be produced on viability assessments and it considers that key objectives for such guidance should be to avoid creating requirements that would delay plan making or place an additional financial burden on local authorities.

The section on affordable housing is very thin and does not even reference affordable housing in the sub-heading, which may be indicative of its relative priority. PPS3 contains a statement that the Government is committed to providing high quality housing for people who are unable to access or afford market housing and it is considered that this policy objective should be retained. At minimum there also needs to be explicit support for the principle of requiring developers to incorporate affordable housing where there is a need, allowing for refusal where there is no provision.

The approach to rural exception sites encouraging incorporation of market housing is a departure from well-established and understood current guidance which sees rural exception sites as for affordable housing only. The Council is concerned that allowing market housing as part of such schemes would create additional hope value for landowners and consequently create a barrier to the release of land primarily for social housing. The Council would prefer to see the existing approach in PPS3 retained but if the Government wishes to retain the reference to market housing it should make it clear that the policy approach should be determined locally. Additionally there is no longer any reference to rural exception sites being reserved for affordable housing in perpetuity or for local people. These are important aspects of ensuring success and gaining acceptance of the policy and need to be retained.

Gypsies and Travellers (not included in the NPPF)

The principle of including policies on Gypsies, Traveller and Travelling Showpeople in the National Planning Policy Framework is supported. To do otherwise would undermine the aim of setting out all national planning policy in one document. However, the Council does not support incorporating Planning for Traveller Sites, as currently drafted, into the NPPF. Our representations dated 6 July sought a number of changes to the consultation document. Key points are set out in the supplement at the end of this response which also includes comments on consistency between the two documents.

Planning for People: Design (paras 114-123)

The support for design codes is welcome and is consistent with the Residential Character Assessments programmed for the District's main towns and village design statements.

The promotion of engagement with the community is supported but it should be seen as a means towards achieving better quality development, not a reason in itself for permitting development, which the draft NPPF appears to suggest.

Planning for People: Sustainable Communities (paras 124-132)

The section on community facilities is supported.

The introduction of the 'Local Green Space' designation looks like creating two categories of open space given that the NPPF envisages that the new designation would not apply to most open spaces. This may raise issues over identifying criteria for which open spaces comply with the new designation. However, the strong protection afforded to Local Green Space is to be supported and the principle of the designation is likely to be strongly supported by local communities.

Para 129 on the loss of open space should include a requirement for replacement provision of equal value where open space is lost on the grounds of being outweighed by the benefits from the development.

Planning for People: Green Belt (paras 133-147)

Reading the Green Belt section in isolation would suggest there is no significant change subject to comments below on appropriate development. But this will only be the case in Green Belt Districts if the policy is seen as sufficient to override the requirement to meet development needs. The wording in para 140 that when defining Green Belt boundaries authorities should ensure consistency with meeting identified requirements for sustainable development might be read as requiring Green Belt release to meet development needs. However, the paragraph refers to defining rather than reviewing Green Belt boundaries and this interpretation appears inconsistent with the retention of wording about the permanence of Green Belt and boundary changes only in exceptional circumstances. Statements from ministers have also stressed that Green Belt policy is not being changed. Green Belt policy involves restraint on development and means that development needs are not all likely to be met in Green Belt areas. Some clarification to this effect within the final document would overcome potential inconsistencies that exist in the draft

The change to para 144 to allow replacement of buildings regardless of their use enables appropriate development (farm buildings) to be replaced by inappropriate development (houses and commercial buildings) effectively urbanising the Green Belt. It is an approach that could lead to a proliferation of scattered residential and commercial development in potentially isolated rural areas contrary to principles of sustainable development to a much greater degree than current policy which allows re-use but not replacement. The paragraph should be qualified to only apply to existing inappropriate development.

The change from essential to appropriate facilities for outdoor sport and recreation, also in para 144 is not supported. The essential facilities test is well

established and understood and should be retained as should the helpful examples of essential facilities in PPG2.

The treatment of all previously developed sites on the same basis could also have adverse consequences raising hopes of infilling on small sites which would be incompatible with Green Belt status, whilst removing the special position of MDSs. The text should be amended to allow for Districts continuing to designate and produce local policies for major developed sites.

A more general addition at the end of para 144 that would explicitly allow for local policies on these issues to be included in local plans would help.

Planning for Places: Climate Change, Flooding and Coastal Change (paras 148-162)

Kent County Council is currently leading on the mapping of opportunity areas for renewables in the county. It is unclear whether the NPPF is expecting such mapping to be in development plans and it would be helpful if the intended status of such maps could be clarified.

The references to SFRAs and FRAs contain no practical guidance on their content (they are not even listed in the Glossary). Some further guidance will be needed to avoid future disputes. The NPPF also needs to cover vulnerabilities of different types of development to flooding reflecting current guidance in PPS25.

Planning for Places: Natural Environment (paras 163-175)

The text on the natural environment generally maintains existing policy and is consistent with the approach in the Council's Core Strategy and the emerging Allocations and Development Management policies. No objection is raised.

Noise and air pollution are dealt with quite briefly and rather lost at the end of the Natural Environment section. The structure of the NPPF would benefit from making this a separate sub section in Planning for Places.

Noise Exposure Categories should be retained as they provide an objective basis for assessing impacts/acceptability.

Planning for Places: Historic Environment (paras 176-191)

Existing policy in PPS5 includes a presumption in favour of the conservation of designated heritage assets, stating that the more significant the heritage asset the greater the presumption. This is followed by the specific guidance that is retained in para 183 of the NPPF. The presumption is an important part of the policy and gives it added weight, especially when otherwise it is set against the new presumption in favour of sustainable development. The existing wording should be retained.

PPS5 also has a policy on the setting of a designated heritage asset. While some aspects of this have been retained in the NPPF the specific recognition that

adverse impact on the setting of a heritage asset should weigh against a proposal is not clearly set out and should also be retained.

Finally PPS5 contains a detailed policy setting out the factors that should be taken into account in assessing proposals for enabling development intended to secure the future conservation of a heritage asset. The NPPF in para 190 reduces enabling development to a single sentence assessing whether the benefits outweigh the disbenefits where a departure from policy is involved. The more detailed guidance in PPS5 is important and should not be lost.

Supplement

Additional National Planning Policy Framework Consultation on incorporating Planning for Traveller Sites

The Government is proposing to incorporate 'Planning for Traveller Sites' into the National Planning Policy Framework. As part of the consultation on the NPPF, it is asking for responses to the following question:

Do you have views on the consistency of the draft Framework with the draft planning policy for traveller sites, or any other comments about the Government's plans to incorporate planning policy on traveller sites into the final National Planning Policy Framework?

Sevenoaks District Council supports the principle of including policies on Gypsies, Traveller and Travelling Showpeople in the National Planning Policy Framework. To do otherwise would undermine the aim of setting out all national planning policy in one document. However, the Council does not support incorporating Planning for Traveller Sites, as currently drafted, into the NPPF. SDC's objections to Planning for Traveller Sites are set out in its representations of 6th July 2011.

The Council considers that a key objective of national policy should be to share responsibilities for provision more equitably amongst local authorities and communities. The policies currently set out in 'Planning for Traveller Sites' would result in gypsies and travellers increasingly being concentrated into those districts with high levels of existing provision. The Council has expressed its concerns that the suggestion that local planning authorities voluntarily co-operate to address needs where there are significant constraints is unrealistic and flawed.

In addition to this, Sevenoaks District Council does not support the proposal that local authorities should be required to identify and maintain a 5 year supply of deliverable gypsy and traveller pitches to meet identified need. The Council argues that to expect gypsy and traveller families to identify sites that could meet their needs over this period is unrealistic and that rigorous application of this policy is likely to lead to unsound LDF documents.

The need for a 5 year supply of deliverable sites is based on a general approach that seeks to align Gypsy and Traveller policy much more closely with general

housing policy (Planning for Traveller Sites, para 3.4). Whilst this is an appropriate aim in some respects, including for policies on Green Belt protection, it is not an approach that should be applied to all policy issues. Currently there are policies in 'Planning for Traveller Sites' that are, quite correctly, not consistent with the policies in the housing chapter of the NPPF.

Whilst the NPPF states that planning permission for housing should be granted where a local authority can not currently demonstrate a 5 year supply of housing (para 110), 'Planning for Traveller Sites' states that where a 5 year supply can not be identified, temporary permissions should be favourably considered (para 26). Notwithstanding the Council's concerns about planning for a 5 year supply of Gypsy and Traveller Sites, the proposal that temporary permissions for pitches should be favourably considered is a more appropriate approach than would be the case if the policy was to be made consistent with NPPF para 110. The use of temporary permissions, where acceptable, will ensure that local authorities retain the ability to determine acceptable locations for gypsy and traveller pitches over the longer-term through LDFs.

In addition, Sevenoaks District Council would not support an amendment to 'Planning for Traveller Sites' that would require local authorities to identify sufficient sites to meet needs plus at least 20%. Whilst this move would ensure consistency with the housing policies of the NPPF, it would not be supported on the basis that identifying a 5 year supply already appears to be an unrealistic requirement in 'Planning for Traveller Sites'.