

Rother District Council

Agenda Item:

Report to: Cabinet
Date: 2nd July 2012
Report of the: Director of Services
Subject: National Planning Policy Framework and conformity of the adopted Local Plan

Recommendation: It be **RESOLVED** that:

- 1) **The implications of the National Planning Policy Framework on the adopted Rother Local Plan be noted;**
 - 2) **Planning Committee be advised that the Local Plan policies identified as being consistent with the NPPF, as set out in Appendix A, should continue to be used in the determination of planning applications pending adoption of the Rother Core Strategy and/or the Development and Site Allocations plan.**
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Head of Service: Tim Hickling
Lead Cabinet Member: Councillor Mrs George

Purpose of Report

1. The Government has recently replaced the previous national planning policy statements and guidance with a single National Planning Policy Framework (NPPF). This report identifies the implications of this on the adopted Local Plan policies that the District Council utilise in determining planning applications.

Background

2. The NPPF states that the purpose of the planning system is to contribute to the achievement of sustainable development. The 'Development Plan' is the starting point for decision making. Therefore, it is critical that local planning authorities have an up-to-date plan in place.

3. The NPPF came into force immediately upon its publication this Spring. However, some transitional arrangements, albeit limited, are set out in Annex 1 of the Framework.
4. Paragraph 215 of the NPPF applies to plans published under the 1990 Town and Country Planning Act, which is the case for the Council's Local Plan. This allows 'due weight' to be given to relevant policies in such plans depending on their degree of consistency with the Framework, adding that 'the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given'.
5. While this guidance may be challenged legally, in that Local Plan policies remain part of the Development Plan (and hence the starting point for the determination of planning applications), given that the policies were adopted some time ago, officers have undertaken an exercise to determine which 'saved' local plan policies are consistent with the NPPF. The 'saved' Local Plan policies have been placed in one of the following categories as a result of this assessment:
 - **Fully compliant with the NPPF** – policies in this category are in general conformity with the NPPF, add to the NPPF (whilst remaining consistent with the thrust of the document), whilst not contradicting it. These Local Plan policies can continue to be used to determine planning application alongside the NPPF.
 - **Partially compliant with the NPPF** – a number of the 'saved' Local Plan policies contain a significant level of detail. Parts of these policies are consistent with the NPPF, whilst certain parts are not. These policies need to be applied by judging the weight that can be applied to them, alongside the NPPF, in the specific circumstances of each individual application.
 - **Not compliant with the NPPF** – policies that take a different direction and contrary to the NPPF. These policies should no longer be used in determining planning applications.

Findings

6. Appendix A summarises the assessment of the 'saved' Local Plan policies and identifies which of the above categories each policy falls within.
7. The assessment finds that virtually all Local Plan policies are compliant with the NPPF. No Local Plan policy was found to be not compliant with the NPPF and only one policy – DS6 - was found to be partially compliant with the NPPF.

8. Policy DS6 'Managing Housing Release' is a criteria-based policy with four sub-parts. The Local Plan accepts that the allocations will represent sustainable development, but Part (iii) of this policy effectively holds back two sites - Udimore Road, Rye (since developed) and Grove Farm, Robertsbridge - in reserve in order to manage the supply of land. However, it may be argued that is not consistent with the presumption in favour of sustainable development as set out at paragraph 14 of the NPPF. For this reason, this policy is identified as 'partially compliant'.
9. This policy also refers to the former Structure Plan housing requirement, which has of course since been superseded. Of course, it is accepted that the Local Plan allocations are not sufficient to meet most recently 'objectively assessed' need for housing (whilst still recognising that the NPPF accepts that this is not appropriate in an AONB). However, this is being addressed as a matter of urgency through the emerging Core Strategy and future site allocations work. It is not seen as automatically meaning that the general policies of the Local Plan are incompatible with the NPPF. Moreover, the Local Plan's unimplemented allocations are regarded as being in accordance with the NPPF insofar as it gives a clear steer on identifying sites *'to deliver the homes, business and industrial units, infrastructure and thriving local places that the country needs'* (Paragraph 17 of the NPPF).
10. The same conclusion is reached in relation to outstanding business allocations, as the review of these as part of the Employment Strategy and land review suggests that they are all likely to come forward. However, all unimplemented allocations will be further reviewed through the Development and Site Allocations DPD.
11. Also, in relation to business sites, careful consideration has been given to conversion policies that give priority to business uses in the light of the NPPF. The NPPF indicates in one section (paragraph 55) provides for LPAs to approve the re-use redundant or disused buildings for housing, while elsewhere (paragraph 28) it states that local plans should *'support the sustainable growth and expansion of all types of businesses and enterprise in rural areas, both through conversion of existing buildings and well-designed new buildings;'*
12. Given the core principle of empowering local people to shape their surroundings, it is considered that it is for the LPA to decide where the priority lies. The priority to employment generating uses (including tourism) has previously been tested through public inquiry into the Local Plan and is further supported by the 'Hastings and Rother Employment Strategy and Land Review' and the 'Rural Settlements Study', and is being carried forward through the Core Strategy. Therefore, it is concluded that the Local

Plan policies in relation to the conversion of buildings in the countryside are compatible with the NPPF.

13. It is recommended that the Cabinet endorses this schedule. This schedule will be of assistance to members of the Planning Committee (and the Head of Planning using delegated powers) in their determination of planning applications. Similarly, the schedule will assist Parish and Town Councils and residents in making comments on planning applications, as well as applicants in preparing planning applications.
14. Members attention is also drawn to a provision in the NPPF that allows decision-takers to give weight to emerging plans when determining planning applications; the more advanced the preparation, the greater weight that can be given, although reduced where there are unresolved objections to the plan. An assessment of the Core Strategy in relation to each of the relevant NPPF statements was completed in May 2012 and it was concluded the Core Strategy is in general conformity with the NPPF.

Anthony Leonard
Director of Services

Risk Assessment Statement

Failure to clarify the relationship between the NPPF and Local Plan policies will make the planning system less workable in Rother District. Without clarification the Council will expect to be challenged on the decisions made by Rother District Council as local planning authority.

Appendices

Appendix A – Assessment of ‘saved’ Local Plan policies against the National Planning Policy Framework

Appendix A

Assessment Schedule of Compliance of 'Saved' Policies Rother District Local Plan (2006) with the National Planning Policy Framework.

Rother District Council Adopted Local Plan Policies		Compliant	Partially Compliant	Not Compliant	Key NPPF Paragraphs ¹
Chapter 4	Development Strategy				
Policy DS1	Development principles	✓			Para14/17/21/32/47/58/100/115/118/120/121/128/131/133
Policy DS2	Overall spatial strategy	✓			Para14/17/47/111/115
Policy DS3	Proposals within development boundaries	✓			Para14/17/55
Policy DS4	Proposals outside development boundaries	✓			Para17/55/111/115/116/117/118
Policy DS5	Strategic gaps	✓			Para14/17/115
Policy DS6	Managing housing release		✓		Para14/17/47/50/55
Chapter 5	General Development Considerations				
Policy GD1	General development criteria	✓			Para14/17/55/56/58/67/69/70/96/97/100/109/112/115/118/120/121/123/131/132/133
Policy GD2	Availability of Infrastructure and services	✓			Para14/17/21/31/42/70
Chapter 6	Housing Developments				
Policy HG1	Affordable housing	✓			Para50/54
Policy HG2	Affordable housing outside development boundaries	✓			Para54
Policy HG3	Housing mix	✓			Para47/50
Policy HG4	Principles of sustainable residential environments	✓			Para17/34/35/50/56/57/58/61/63/69/70

¹Paragraphs listed are not definitive but demonstrate broad compliance with the NPPF

Rother District Council Adopted Local Plan Policies		Compliant	Partially Compliant	Not Compliant	Key NPPF Paragraphs ¹
Policy HG5	Residential mobile homes	✓			Para 14/115/118
Policy HG6	Sites for gypsies and travelling showpeople	✓			NPPF Policy Guidance for G&T
Policy HG7	Retention of existing housing stock	✓			Para14/17
Policy HG8	Extensions and alterations to existing dwellings	✓			Para14/17/56/58/60/61//63/64/115
Policy HG9	Extensions to residential curtilages	✓			Para14/17/115
Policy HG10	New dwellings in the countryside	✓			Para14/17/28/54/55/58/115/118
Policy HG11	Residential re-use and adaptation of rural buildings	✓			Para14/17/28/55/115/116
Chapter 7 Community Facilities					
Policy CF1	New community facilities	✓			Para14/17/69/70
Policy CF2	Safeguarding of community facilities	✓			Para14/17/70/74
Policy CF3	Proposals for sports and recreation facilities	✓			Para14/17/70/73
Policy CF4	Provision of play areas	✓			Para14/17/70/73
Policy CF5	Equestrian development	✓			Para14/17/28/34/56/58/115/118
Policy CF6	Provision of public art	✓			Para14/56/58/70
Chapter 8 Transport Developments					
Policy TR1	Bexhill-Hastings link road northern area of search	✓			Para31/41
Policy TR2	Improvements to sustainable transport	✓			Para17/34/35/36/37/38
Policy TR3	Provision of parking facilities	✓			Para32/35/39/40/58
Chapter 9 Employment Developments					
Policy EM1	New business development including through mixed uses	✓			Para14/17/20/21/28
Policy EM2	Retention of employment sites and buildings	✓			Para14/17/21/22/28
Policy EM3	Employment, including tourism, use of rural buildings in the countryside	✓			Para14/17/21/28/58/115/120/123
Policy EM4	Marley Lane – land at Rutherfords Business Park	✓			Para17/20/21/36/115
Policy EM5	Marley Lane – land adjacent to DB Earthmoving	✓			Para17/36/109/118

Rother District Council Adopted Local Plan Policies		Compliant	Partially Compliant	Not Compliant	Key NPPF Paragraphs ¹
Policy EM6	Businesses in residential areas	✓			Para21/28/120/123
Policy EM7	New and extended tourist attractions and visitor facilities	✓			Para21/28/115
Policy EM8	Extension of steam railway from Bodiam to Robertsbridge	✓			Para14/17/28/31/103/115
Policy EM9	Tourist accommodation	✓			Para14/17/21/23/28/115
Policy EM10	Chalet, caravan and camping accommodation	✓			Para14/17/28/100/112/115/118/123
Policy EM11	Occupation of holiday chalets, static and touring caravans	✓			Para14/28/50
Policy EM12	Winter storage of caravans	✓			Para28
Policy EM13	Shopping and related commercial development in town/district centres	✓			Para14/17/23/58
Policy EM14	Retail development outside town and district centres	✓			Para14/17/24/26/27
Policy EM15	Retail development in within town and village development boundaries	✓			Para14/17/23/25/24/28/70
Chapter 10	Bexhill				
Policy BX1	Planning strategy for Bexhill	✓			Para14/17/41
Policy BX2	Land north of Pebsham	✓			Para14/17/19/47/50
Policy BX3	Land north of Sidley	✓			Para17
Policy BX4	Countryside Park	✓			Para70/73
Policy BX5	Town centre	✓			Para23/24
Policy BX6	Town centre development area	✓			Para23/24
Policy BX7	Town centre office area	✓			Para23
Policy BX8	Former Galley Hill depot	✓			Para17
Policy BX9	High School and Drill Halls, Down Road	✓			Para17
Policy BX10	Cemetery extension	✓			Para 70

Rother District Council Adopted Local Plan Policies		Compliant	Partially Compliant	Not Compliant	Key NPPF Paragraphs ¹
Chapter 11	Battle				
Policy BT1	Planning strategy for Battle	✓			Para14/17/28/29/30/58/115/128/131/133/135
Policy BT2	Land at Blackfriars	✓			Para17/32/36/41/47/70
Policy BT3	Land at North Trade Road	✓			Para17/43
Chapter 12	Rye and Rye Harbour				
Policy RY1	Planning strategy for Rye	✓			Para14/17/20/21/23/58/100/118/119/126/128/133/135
Policy RY2	Planning strategy for Rye Harbour	✓			Para14/17
Policy RY3	Land adjacent to Rock Channel	✓			Para14/17/47/50/70/100
Policy RY4	Former Thomas Peacocke Lower School	✓			Para14/17/47/50
Policy RY5	Land north of Udimore Road	✓			Para14/17/47/50
Policy RY6	Town centre	✓			Para14/17/23/24/26/27
Policy RY7	Rye Harbour Road Employment Area	✓			Para14/17/21/47/70/100/118/119/120/121
Policy RY8	Land adjacent to Stonework Cottages, Rye Harbour	✓			Para14/17/47/50
Chapter 13	Villages				
Policy VL1	Land South-west of Strand Meadow, Burwash	✓			Para14/17/47/70
Policy VL2	Land to the West of Etchingam	✓			Para14/17/31/47/50/70
Policy VL3	Land adjacent to Fairlight Gardens, Fairlight Cove	✓			Para14/17/31/47/50/70
Policy VL4	Land at Corner Farm, Flimwell	✓			Para14/17/47/50/70
Policy VL5	Land west of Old Wardsdown	✓			Para14/17/47/50/70/118
Policy VL6	Land east of the Village Hall at Northiam	✓			Para14/17/47/50/70/118
Policy VL7	Land at Grove Farm, Robertsbridge	✓			Para14/17/47/50/70/131/139
Policy VL8	Land adjacent to Culverwells, Robertsbridge	✓			Para14/17/47/50/70/100
Policy VL9	Land off Moor Lane, Westfield	✓			Para14/17/47/50/70
Policy VL10	Extension to Wheel Farm Business Park	✓			Para14/17/21

Rother District Council Adopted Local Plan Policies		Compliant	Partially Compliant	Not Compliant	Key NPPF Paragraphs ¹
Policy VL11	Land at Westfield Down, Westfield	✓			Para14/17/47/118
Policy VL12	Victoria Way and land south of Harbour Farm, Winchelsea Beach	✓			Para14/17/47/100
Chapter 14 – Hastings Fringes					
Policy HF1	Land off Burgess Road	✓			Para14/17/21/118
Policy HF2	Land off Woodlands Way	✓			Para14/17/47/115/118