

Date of Meeting 6th August 2024

Document classification: Part A Public Document

Exemption applied: None

Review date for release N/A

Implications of the proposed reforms to the National Planning Policy Framework on the Local Plan Work Programme

Report summary:

This report seeks to draw Members attention to a number of key changes proposed in the consultation on the new National Planning Policy Framework (NPPF) published on the 30th July 2024. The report focuses on proposed changes that have a direct impact on production of the Local Plan, the timetable and work programme and the proposed transitional arrangements for implementation of the new NPPF and the new standard method for calculating housing requirement figures.

The new standard method would increase the housing requirement figure for East Devon from 893 homes per annum to 1,146 homes per annum. It also seeks to reintroduce a 5% buffer to this for the purposes of demonstrating a 5-year housing land supply. The proposed transitional arrangements would however present an opportunity to progress the Local Plan based on a figure of 946 homes per annum without a 5% buffer provided the plan progressed to regulation 19 stage (publication draft) within 1 month of publication of the new NPPF. Under this scenario the plan would be examined under the NPPF of December 2023 rather than the new NPPF. The report recommends progressing plan production under these transitional arrangements.

Is the proposed decision in accordance with:

Budget Yes No

Policy Framework Yes No

Recommendation:

That Strategic Planning Committee agree to progress plan production under the previously agreed timetable with the intention of publishing a regulation 19 plan within 1 month of publication of the new NPPF. The plan to be based on a housing requirement of at least 946 homes per year in order to benefit from the transitional arrangements proposed within the “Proposed reforms to the National Planning Policy Framework and other changes to the planning system” consultation document.

Reason for recommendation:

To ensure that we maximise the potential for the council to progress a local plan under the proposed transitional arrangements

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Portfolio(s) (check which apply):

- Climate Action and Emergency Response
- Coast, Country and Environment
- Council and Corporate Co-ordination
- Communications and Democracy
- Economy
- Finance and Assets
- Strategic Planning
- Sustainable Homes and Communities
- Culture, Leisure, Sport and Tourism

Equalities impact Low Impact

Climate change Low Impact

Risk: High Risk; There are risks associated with progressing with the local plan based on the current timetable and complying with the proposed transitional arrangements in terms of our ability to keep to this timetable and uncertainties around the transitional arrangements and longer term impacts. The risk of not keeping to this timetable is the significant risk of needing to provide for a substantially higher housing requirement in the Local Plan.

Links to background information [Proposed reforms to the National Planning Policy Framework and other changes to the planning system - GOV.UK \(www.gov.uk\)](#); [Letter from the Deputy Prime Minister to local authorities Leaders in England: Playing your part in building the homes we need \(publishing.service.gov.uk\)](#); [Local Plan examinations: letter to the Chief Executive of the Planning Inspectorate \(July 2024\) \(publishing.service.gov.uk\)](#)

Link to [Council Plan](#)

Priorities (check which apply)

- A supported and engaged community
- Carbon neutrality and ecological recovery
- Resilient economy that supports local business
- Financially secure and improving quality of services

Introduction

The government launched a consultation into changes to the National Planning Policy Framework (NPPF) on the 30th July 2024. The consultation covers a wide range of issues and asks over 100 questions of consultees responding to the document. This report does not seek to respond to all of these issues as a separate, more detailed report will be brought to the committee in September to enable a response to be provided before the consultation closes on the 24th September. This future report will propose responses to the consultation questions relevant to EDDC for Members to consider.

There are however some immediate issues arising from the consultation in relation to housing numbers and the future of Local Plans that it is important for Members to consider as soon as possible. These issues may impact on the work programme for the Local Plan which is reaching a critical stage in its production over the coming months as we move ahead with production of a Regulation 19 publication version of the plan for consultation at the end of the year.

Housing Numbers

Building on their election manifesto commitments the consultation on reforms to the NPPF reaffirms their commitment to delivering 1.5million homes in England over the next 5 years and commits to “get Britain building again”. This is a theme that runs through the consultation but a key thing to note is that the consultation proposes reversing many of the changes made to the NPPF by the previous government in December 2023. This includes making the standard method for calculating housing requirements for local authority areas mandatory again and removing wording inserted in December that set out limited exceptional circumstances for departing from it. It also seeks to remove references to a 4-year housing land supply as an acceptable housing supply position in certain circumstances.

Prior to the December 2023 NPPF authorities were required to include a 5% buffer to their 5-year housing land supply. This requirement was removed in the December 2023 NPPF but the consultation proposes to reintroduce the buffer to “...provide an important buffer of sites, ensuring choice and competition in the market”. This potential change would impact on our 5-year housing land supply position in future making this more challenging to provide.

A further change proposed by the consultation is a new standard method calculation. The primary change is use of a percentage increase of current housing stock levels as a baseline rather than household projections data. The result of the proposed new standard method would be that the housing requirement figure for East Devon would rise from 893 homes per annum to 1,146 homes per annum (an increase of 253 homes per annum or a 28% increase). It is worth noting that our neighbouring authorities would also see significant increases with Exeter’s figures increasing by 27%, Teignbridge by 49% and Mid-Devon by 65%. It should also be highlighted that the figures for Torbay Council would see their need increase by 66%. Members will be aware that Torbay Council have already been highlighting in consultation responses to our plan that they are likely to be unable to meet their own housing need under the current standard method. These increases are likely to create pressure across the area for neighbouring authorities to seek help meeting their housing need and make it even more difficult for us to seek help meeting our own housing need.

The consultation is clear that although the duty to co-operate will be revoked under the Levelling Up and Regeneration Act 2023 it will remain a legal requirement under the current local plans system and will continue to apply to local plans progressed under the current system and so we will need to show compliance with the duty. The consultation also refers to Spatial Development Strategies (SDSs) which would be developed as sub-regional plans to cover functional economic areas and would encourage partnership working. This may become a role for any combined authority in the future which is in itself bound up with the passage of the devolution proposals. The overall aim would be to maintain effective co-operation on planning matters through the SDS. Further consultation on SDSs is envisaged and will be brought to Members attention when available.

The Future of Plan Making

Chapter 12 of the consultation sets out how local planning authorities should prepare local plans in response to the revised NPPF. It makes it clear that “Local planning authorities should continue to progress their plans to adoption under the existing system without delay. Authorities without an up-to-date plan should not stop work on a plan with the intention of preparing a plan under the new system”. The consultation makes it clear that the government wants to achieve complete coverage of up-to-date plans as soon as possible.

The consultation sets out transitional arrangements to help to maintain the progress of plans at more advanced stages of production. It states that "...those plans that have reached Regulation 19 publication stage but not yet been submitted for examination one month after the revised framework is published, with a gap of no more than 200 dwellings per annum between the local planning authority's revised Local Housing Need figure and its proposed requirement (as set out in the Publication version of the plan), should also progress to examination under the version of the NPPF it has used when preparing the plan thus far". In effect this leaves the Council with two options with regard to progressing the Local Plan:

1. Seek to publish a publication version of the plan within 1 month of publication of the revised NPPF and ensure that the plan provides for at least 946 homes per annum plus headroom. In this circumstance the plan would be examined against the December 2023 version of the NPPF and not the new version.
2. Pursue a new Local Plan in accordance with the new NPPF and in so doing comply with the new standard method requirement of at least 1,146 homes per annum plus the required 5% buffer and any headroom. Under the consultation the plan would need to be submitted for examination no more than 18 months after the publication of the revised NPPF.

Planning for 946 homes plus headroom is a slightly higher number than we had been planning for lately with our figure under the current standard method having reduced to 893 homes per annum earlier this year. However, 946 homes per annum is the same figure that the draft plan consulted on at Reg 18 stage at the end of 2022 was based on. As a result, we know that this is achievable whereas the 1,146 homes plus 5% buffer required by option 2 is a scale of growth that we have not previously considered.

Option 1 as set out above would potentially align with the current plan making timetable which envisages publication of the plan in November/December. Clearly an unknown in that timetable is exactly when the new NPPF may be published. The government had originally suggested it would be published in mid-October. However, with the consultation period only ending on the 24th September this timetable seems unlikely. It should be noted that consultation responses would need to be considered and responded to in a government response document prior to publication. The Deputy Prime Minister has stated that it will be published by the end of the year. There may therefore be an opportunity to take advantage of the transitional arrangements set out in the consultation.

There is a risk that we are unable to fulfil the timetable and are unable to publish the plan in time. There are a number of key pieces of evidence for the plan still in progress such as the Water Cycle Study, the masterplan for the proposed second new community and associated evidence such as a transport study looking at the cumulative impacts of growth across the area on the strategic and trunk road network. These are pieces of work that are expected to be completed in line with the current work programme but they are risks to us achieving it. It should however be noted that while not good practice evidence documents could be published later if necessary.

The need to demonstrate a 5-year housing land supply at the point of adoption of the plan remains a further challenge to the timetable for plan production particularly in the face of infrastructure capacity challenges such as in relation to wastewater.

These risks exist with the current Local Plan timetable and failure to meet the timetable would simply mean that we would need to revert to option 2 above. Option 2 would lead to us needing to

meet a significantly higher housing requirement figure which would be extremely challenging, if not impossible.

On the face of it there are some other factors to consider in relation to option 2 particularly with regard to affordable housing requirements. Examination of the local plan under the current NPPF leads to requirements to provide for First Homes and other affordable home ownership products as part of our affordable housing mix. The proposed new NPPF would give greater freedom to secure higher levels of social rent and affordable rent housing which would better meet the needs of our communities. Clearly this would be a significant benefit of pursuing a plan under the proposed new NPPF. The current draft Local Plan has been drafted with policies that explicitly set out the tenure mix of affordable housing that would be required. Officers need to consider whether this is necessary or whether this could be worded in such a way that enables the plan to comply with the current NPPF to satisfy the examination of the plan but for us to be able to take advantage of the changes proposed in the new NPPF later such as through a supplementary planning document (SPD) or other means to secure the higher levels of social rent housing that this change would enable. This needs careful consideration and has implications for the viability assessment of the plan since social rented housing is more expensive for developers to deliver than First Homes. These issues will be considered further by officers and will need to be addressed in a future report to the committee.

Assessment

It is considered that Option 1 presents an opportunity to progress the Local Plan on a similar basis to our current timetable and expectations on housing numbers but will require us to keep to the intended timetable or potentially bring publication of the plan forward to ensure the Regulation 19 version of the plan is published within 1 month of the new NPPF.

The new NPPF consultation states an intention to extend the period for submission of plans for examination under the current plan making system. Members will be aware that the legislation currently requires plans to be examined under the current plan making system to be submitted by the end of June 2025. According to the consultation it is intended to extend this to no later than December 2026. This means that while the new NPPF consultation adds pressure to publish the regulation 19 plan it would relieve the current pressure to submit the plan thereby allowing more time for consultation responses to be summarised. It should also be noted that there is nothing in the legislation that prescribes that the regulation 19 stage of plan production should consist of a single consultation. Once reached the regulation 19 stage could be extended through a further consultation on any additional documents or evidence not available in time to meet the prescribed timetable for compliance with the transitional arrangements.

Conclusion

In conclusion it is considered that it makes sense to progress the local plan under option 1 as set out above and try and take advantage of the proposed transitional arrangements and benefit from the reduced requirements that would apply particularly in relation to the housing requirement figure. Even if the Council were to fail to achieve this timetable, then we would simply have to pursue a plan under option 2 instead and so it is considered that there is nothing to be lost by trying to progress under the transitional arrangements. The benefit of having confidence in having tested the anticipated levels of growth is considered to outweigh the potential benefits of greater freedom over affordable housing tenures and in any event, it may be possible to take advantage of this through careful wording of the plan and/or a separate SPD to set out requirements but this requires further consideration before a way forward could be recommended.

Financial implications:

From the Council's finance prospect it is assumed that all local plan delivery costs will be achieved from current budgets and associated reserves.

Legal implications:

The legal implications are set out within the report (002533/August/DH).