



PLANNING COMMITTEE: 6th May 2014

DIRECTORATE: Regeneration, Enterprise and Planning

HEAD OF PLANNING: Susan Bridge

REPORT TITLE: The impact of emerging plan policy in determining planning applications

1. RECOMMENDATION

1.1 Planning Committee is recommended to note the contents of the report and its implications for the purpose of determining planning applications.

2. PURPOSE OF THE REPORT

2.1 Statute requires planning applications to be determined in accordance with the development plan unless material considerations indicate otherwise. In Northampton's case due to the age of the last adopted borough wide Local Plan, navigating a way through this provision can be a complicated process.

2.2 The report seeks to address this issue for officers and Committee members in a number of ways. It clarifies what is the adopted development plan for Northampton. It identifies what are material considerations and it focuses on the adopted development plan's conformity with the National Planning Policy Framework (NPPF) in respect of the saved policies of the Northampton Local Plan.

2.3 It also identifies the extent to which, due to its consistency or otherwise with the National Planning Policy Framework (NPPF) and the emerging development plan policies, the weight that can be afforded to the saved policies should be diminished. This task has been undertaken through a Self-Assessment Checklist produced by the Planning Advisory Service (paragraphs 6.1 - 6.3 refer).

2.4 Further analysis of policy will be provided to Committee at a future meeting to establish the likely weight that can be afforded to individual policies that comprise the Development Plan for the area. In particular, this will provide a policy by policy assessment of the saved policies

along with an assessment of the emerging policies contained in the West Northamptonshire Joint Core Strategy (JCS).

3. THE IMPORTANCE OF THE DEVELOPMENT PLAN

3.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that planning applications should be determined in accordance with the adopted development plan unless material considerations indicate otherwise.

3.2 Material planning considerations are essentially anything that is relevant to making a planning decision (e.g. whether to grant or refuse an application for planning permission). Its scope is therefore very wide. To this extent the courts have rarely indicated what cannot be a material consideration. However, in general they have taken the view that planning is concerned with land use in the public interest, so that the protection of purely private interests such as the impact of a development on the value of a neighbouring property or loss of private rights to light could not be material considerations.

4. NATIONAL PLANNING POLICY FRAMEWORK (NPPF)

4.1 Since the Northampton Local Plan was written, there has been a significant amount of national planning policy produced. More recently the coalition Government has made substantial changes to the planning system, including issuing policy guidance. Its approach to Planning is laid out in the NPPF, supplemented by National Planning Policy Guidance (NPPG). The NPPF states that it is a material consideration which must be taken into account in the preparation of plans as well as in the consideration of planning applications.

4.2 The NPPF stresses the importance of having a planning system that is plan led. It states due weight should be given to relevant policies in existing plans according to their degree of consistency with the NPPF. Where a proposal accords with an up-to-date development plan, it should be approved without delay, unless there are clear material reasons otherwise as required by the presumption in favour of sustainable development.

4.3 Where the development plan is absent, silent or the relevant policies are out of date, the NPPF requires the application to be determined in accordance with the presumption in favour of sustainable development unless otherwise specified (paragraph 14).

4.4 In respect of emerging plans weight may also be given to plan policy according to;

- The stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given)

- The extent to which there are unresolved objections to policies (the less significant the unresolved objections, the greater the weight that may be given); and
- The degree of consistency of policies in the emerging plan to the NPPF (the closer the policies in the emerging plan to the NPPF the greater the weight that may be given).

5. WHAT IS THE DEVELOPMENT PLAN FOR NORTHAMPTON?

5.1 The Development Plan, also known as the Local Plan, can comprise either a single document, or number of documents that set out the spatial planning strategy for the area.

5.2 In the case of Northampton Borough the Development Plan is set out in the approved West Northamptonshire Local Development Scheme. For the purposes of S.38 of the Planning and Compulsory Purchase Act 2004 the adopted development plan is:

- Northampton Local Plan 1997 saved policies
- Northampton Central Area Action Plan 2013

5.3 In addition, the following Plans will replace either some or all of the Northampton Local Plan 1997 saved policies:

- West Northamptonshire Joint Core Strategy Part 1 Local Plan
- Northampton Related Development Area Local Plan
- West Northamptonshire Gypsies, Travellers and Travelling Show People Allocations Local Plan
- Neighbourhood Plans

5.4 The status, age and progress of each of the above documents differs, this will ultimately affect the weight that can be given both to the document, and indeed the list of policies it contains. A summary of the status and progress of each document is provided below:

Northampton Local Plan saved policies

The Local Plan was adopted in 1997 and a number of its policies were 'saved' in 2007 to ensure that they remained part of the development plan prior to the adoption of a new plan. As part of the adopted development plan the saved policies are for the purposes of Section 38 of the Planning and Compulsory Purchase Act 2004 the starting point for determining planning applications. The weight to be given to the saved policies will however need to reflect the fact that they are old

policies (pre NPPF).and that where policies conflict, with the NPPF or the emerging West Northamptonshire Joint Core Strategy (JCS) it is likely to be that the more up-to-date policy which carries greater weight.

Therefore many of the policies contained within the JCS are likely to carry more weight than the saved policies.

All polices in Plans adopted prior to the publication of the NPPF are required by the Government to be judged by their degree of consistency with the NPPF and the presumption in favour of sustainable development, referred to above. To provide further guidance on the weight to be attached to the saved policies officers have undertaken a self-assessment check against consistency with the NPPF. This has been done using the Planning Advisory Service's methodology, which is discussed below and shown in Appendix A.

Northampton Central Area Action Plan (CAAP)

This Plan was adopted in January 2013. It examination was post-publication of the NPPF. It provides up-to-date planning policy direction for the town centre and its surrounding area. Therefore the weight that can be attached to it is significant.

West Northamptonshire Joint Core Strategy (JCS) Part 1 Local Plan

The Plan was submitted to the Planning Inspectorate in 2012 and was examined through a series of public hearings which concluded in March 2014.The Plan is at an advanced stage of preparation with the Inspector's report expected in July 2014.

The Plan itself is up to date in terms of evidence. In developing its objectives and strategic approach to future development, it has taken into account the Government's approach to planning policy. The JCS was submitted after the publication of the NPPF. Nevertheless the consistencies of its vision, objectives and policies have been examined in relation to the NPPF. Increasing weight can be given to a plan as a material consideration as it progresses through to adoption.

Given the above, weight should be given to the JCS in respect of determining planning applications where relevant policies apply. The degree of weight that can be given to each policy will however vary, depending on whether or not there are unresolved issues related to the policy, whether these issues are significant, as well as the extent to which the policy is consistent with the NPPF.

The potential weight that the Council could give to the policies contained in the JCS will be assessed and reported to a future meeting of the Planning Committee. This will be based on an internal

assessment of the status of policies and will take into account the degree to which policies have unresolved objections that may be considered significant, and also their consistency with the NPPF. In addition their potential for further modification will form a part of that consideration.

Northampton Related Area Development Local Plan

This Plan will provide more detailed policies for Northampton Borough and areas identified within the JCS within the administrative boundaries of Daventry District and South Northamptonshire Councils. It will provide development management policies and site specific allocations following on from the strategic approach provided by the JCS. Upon adoption it will replace the remaining saved policies from the Northampton Local Plan.

Work has yet to formally commence on this plan and therefore clearly no weight can be attached to it at this stage.

West Northamptonshire Gypsies, Travellers and Travelling Show People Allocations Local Plan

Work has yet to formally commence on this plan and therefore clearly no weight can be attached to it at this stage.

Neighbourhood Plans

The Borough has a number of Neighbourhood Plans which are in progress for the following areas: Spring Boroughs, Duston, Growing Together (which includes Blackthorn, Goldings, Lings and Lumbertubs) and Wootton and East Hunsbury. None of these plans have reached a point where weight can be given to them in making decisions on planning applications although the fact that neighbourhood plan areas have been designated for an area may be a material consideration.

6. THE WEIGHT THAT CAN BE ATTACHED TO NORTHAMPTON LOCAL PLAN SAVED POLICIES.

6.1 As has been shown, there are significant material considerations that would indicate that the weight that should be attached to the Northampton Local Plan saved policies has diminished since 2007. To assist in understanding this impact Officers have undertaken a Compatibility Self-Assessment Checklist against the Northampton Local Plan saved policies (Appendix A refers).

6.2 The Self-Assessment was produced by the Planning Advisory Service (PAS) to enable local authorities to assess the content of local plans against the requirements of the NPPF that were new or significantly different from national policy, previously set out in the now deleted

Planning Policy Guidance Notes and Statements. Ultimately this will also aim to help assess the robustness of policy in determining planning applications.

- 6.3 Policies are judged by their degree of conformity with the NPPF. The attached table considers compatibility against a number of NPPF objectives, including the presumption in favour of sustainable development. As plan making develops, for example through the emergence of policies contained in the JCS, the relevance of existing policy will start to diminish, particularly where those policies pre date the NPPF.
- 6.4 The Self-Assessment highlights that many of the saved policies are prescriptive and inflexible. They are not considered as enabling policies and are therefore contrary to the requirements of the NPPF. They are also developed from old evidence bases, outdated by changes to the Government's approach to policy making. The NPPF seeks to enable development and undertake a positive approach to decision making.
- 6.5 Officers are undertaking a more detailed assessment of the weight that can be attributed to each of the saved Local Plan policies, and this will be reported to Planning Committee in due course.

7. THE IMPACT ON DECISION MAKING

- 7.1 The purpose of the report is to further inform decision making in terms of the importance and weight that should be given to the saved policies. The Self-Assessment Checklist identifies issues of non-conformity arising in respect of the saved policies. The impact of emerging policy and the further impact this will have on the weight to be assigned to individual policies will be reported to a future meeting of the Planning Committee.
- 7.2 In accordance with S38, Planning Committee reports will continue to set out the existing development policies relevant to applications and other material considerations. This report will, however, provide the opportunity for Committee members to better understand the relationship between the saved policies and the NPPF.
- 7.3 It will be apparent to Committee that material considerations that affect the weight that can be attached to development plan policy are continually changing. Whilst no new national changes to government policy are envisaged in the short term, the report of the Inspector examining the Joint Core Strategy is expected in July 2014. This, and the subsequent decisions made by the West Northamptonshire Joint Strategic Planning Committee have the potential to substantially alter the relative weight attached to the saved policies in the Northampton Local Plan.

8. LEGAL IMPLICATIONS

8.1 As set out in the report.

9. SUMMARY AND LINKS TO CORPORATE PLAN

9.1 In reaching the attached recommendations regard has been given to securing the objectives, visions and priorities outlined in the Corporate Plan together with those of associated Frameworks and Strategies.