

SCRUTINY COMMISSION FOR RURAL COMMUNITIES	Agenda Item No. 5
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Report of the Executive Director of Operations

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UPDATE ON NEW PLANNING ISSUES, INCLUDING DRAFT STATEMENT OF COMMUNITY INVOLVEMENT

1. PURPOSE

- 1.1 The purpose of this report is to obtain the Committee's views and comments on a review of the Statement of Community Involvement (attached as Appendix A) which is being presented to Cabinet on 26 March 2012 for approval for the purposes of public consultation. The Committee's views and comments will be taken into account and reported to the Cabinet meeting.
- 1.2 If it is approved by Cabinet, officers propose to consult with the public and stakeholders on a draft of the Statement of Community Involvement in April and May 2012.
- 1.3 This report also provides a summary of the Government's draft National Planning Policy Framework (NPPF), including how it fits with the Peterborough Local Development Framework.

2. RECOMMENDATIONS

- 2.1 The Committee is requested to offer any comments on the draft Statement of Community Involvement, in accordance with the committee's delegations under paragraph 5.5.6 of part 3 of section 5 of the council's constitution ("To contribute to the development of policies, strategies and plans in relation to the delivery of services to rural areas"), before it is presented to the Cabinet on 26 March 2012 for approval for the purposes of public consultation.
- 2.2 The Committee is also requested to note the contents of the draft National Planning Policy Framework and how it fits with the Peterborough Local Development Framework.

3. LINKS TO THE SUSTAINABLE COMMUNITY STRATEGY

- 3.1 This report links to the sustainable growth priority and the strong and supportive communities priority of the Sustainable Community Strategy.

4. BACKGROUND

Introduction

- 4.1 Planning is a high profile and contentious issue, whether that be plan-making (such as allocating sites for development), determining planning applications or preparing 'action plans' for specific communities.
- 4.2 How we plan, and how people can get involved in planning decisions, is also under a period of significant change as a result of the Localism Act 2011.
- 4.3 It is, therefore, essential that the council sets out the 'rules' for all these matters, in order to ensure that:
 - The public has full knowledge of the process and know exactly when best to get involved;
 - Officers prepare plans and deal with planning applications, in the knowledge that they are being prepared in accordance with Members' wishes with respect to public engagement and consultation; and

- Members have confidence that a robust and consistent process is in place.

4.4 As such, from time to time, it is important the council refreshes its consultation framework, and helps people get the most out of the planning system.

Statutory document setting out consultation arrangements

4.5 It is a statutory requirement for the council to set out how it will consult the public on planning matters, in a document entitled '**Statement of Community Involvement**' (**SCI**). The council adopted its first (and current) SCI in February 2008¹.

4.6 However, there have been considerable changes to the planning system in the past four years, especially since the Localism Act 2011 was given royal assent in November 2011, such as:

- Changes to the local plan making Regulations (likely to come into force in Spring 2012);
- Revised guidance from Government, mostly in the form of a new National Planning Policy Framework (NPPF) which will replace all previous government guidance notes such as Planning Policy Guidance/Statements and Circulars (the final version of the NPPF is due in Spring 2012);
- The introduction of 'Neighbourhood Planning', which includes matters such as Neighbourhood Development Plans, Neighbourhood Development Orders, and the setting up of Neighbourhood Areas and associated Neighbourhood Forums (likely to come into force from 1 April 2012);
- The introduction of 'referendums' to approve matters prepared under Neighbourhood Planning powers;
- Proposed abolition of regional planning (likely to come in to force later in 2012);
- New duties on developers to undertake pre-application consultation with communities which will be potentially affected by their proposals (and a duty to demonstrate how comments raised have been taken into account by the developer);
- Possible changes to planning application fee setting (though this now seems less likely than was previously thought);
- A general 'raised expectation' from the public, since the new coalition government has been in place, that planning decisions will be taken with greater involvement of the community; and
- The introduction in Peterborough of Neighbourhood Committees with devolved powers and delegated decision making.

4.7 Thus, officers are recommending that a refresh of the SCI be prepared and have drafted the attached. Cabinet agree at its meeting on 26 March 2012, the draft will be issued for public consultation. Subsequently, a final version, taking into account any comments made, will be taken to Cabinet for adoption.

Principal changes to the SCI since the 2008 version

4.8 Some parts of the SCI are simply in need of updating from the 2008 version, to ensure that updated government guidance is properly reflected and any best practice taken advantage of. However, two new significant sections to the SCI have been added relating to a 'Pre-application Advice Note' and 'Neighbourhood Planning'.

Pre - Application Advice Note

4.9 The Localism Act has put in place much stronger requirements for developers to undertake consultation with communities before submitting a formal planning application to the city council. The Act also enables local planning authorities to prepare a local 'advice note' on this matter which a developer must have regard to when undertaking pre-application consultation.

4.10 To ensure the city council is well prepared in this regard, we set out in the SCI a draft 'advice note' and are seeking views on it. A final version will then be prepared, taking account of both the consultation response and any other national guidance issued in the meantime.

¹ For the current adopted Peterborough SCI (2008), see: http://www.peterborough.gov.uk/planning_and_building/planning_policy/draft_development_plans/statement_of_community_involve.aspx

4.11 We anticipate developers will welcome this local advice note, because it ensures that there is a fair, transparent, level playing field for such pre-application work. Without the advice note, developers could only rely on the rather sketchy details published by Government to date, with the risk that a developer either undertakes too little or too detailed pre-application consultation, the outcomes of which would be delay and an impact on the city council's growth aspirations.

Neighbourhood Planning

4.12 A second significant new section in the SCI is entitled 'Neighbourhood Planning in Peterborough'. This section sets out how the council intends to take forward the wide range of matters that come under the 'Neighbourhood Planning' section of the Localism Act.

4.13 In short, 'Neighbourhood Planning' has two principal elements:

- A '**neighbourhood development plan**', which is defined in the Localism Act as 'a plan which sets out policies (however expressed) in relation to the development and use of land in the whole or any part of a particular neighbourhood area specified in the plan'.
- A '**neighbourhood development order**', which is defined as 'an order which grants planning permission in relation to a particular neighbourhood area...for development specified in the order, or for development of any class specified in the order'.

4.14 In simple terms, a 'neighbourhood area' is either a parish council area (or part thereof) or, where a parish does not exist, an area as defined by a neighbourhood forum. The setting up of such 'areas' and 'forums' have their own set of procedures in the Localism Act, and must be complete before any neighbourhood plan or order is embarked upon.

4.15 Whilst not statutorily required, it is considered sensible and helpful to the public that the SCI sets out how the city council will fulfil its statutory functions under the Localism Act in terms of how the council will deal with any applications to become (a) a **Neighbourhood Area**; and (b) a **Neighbourhood Forum**, and against what criteria the council will approve or reject such applications together with the decision making process.

4.16 It is important to note that the Localism Act and the associated (currently draft) neighbourhood planning Regulations make it very clear that unitary, district or county councils do not prepare, or even lead preparation of, either neighbourhood plans or orders. They can only be initiated by the community themselves. The costs associated with their preparation fall partly to the local planning authority (i.e. Peterborough City Council) and partly to the Parish Council or Forum which has initiated the process.

4.17 The purpose, in part, of the Peterborough SCI is **not** to set the rules as to what a neighbourhood plan or order should contain, but rather what assistance the council will give a parish council or neighbourhood forum to help them prepare such a plan or order. Clearly, it is important that the council is very clear in these matters so as to appropriately give confidence to neighbourhood areas as to what help they will get with preparing their plans or orders. Similarly, being clear will ensure that there are no false expectations as to the amount of resources the council is able to offer and the number of Neighbourhood Plans and Orders it can process in any given time period (especially in the current difficult financial climate). It is a very careful balance to be made, and officers feel the SCI is the right and proper place to agree this (following, of course, public consultation on the draft SCI).

4.18 In short, it is essentially saying that the council will support any neighbourhood wanting to prepare a 'plan' or 'order', but confirming that the lead on their preparation must come from the community and the resources available from the council to help on individual cases will be limited and proportionate.

4.19 The SCI also sets out how the city council will manage the independent examination and referendum processes at the end of the Neighbourhood Plan or Order preparation and approval process.

4.20 It may be that the council gets very limited interest in neighbourhood plans and orders, partly due to the cost burden on communities; partly because we have just gone through a successful joint-working arrangement with parish councils in respect of the Design and Development in Villages SPD; or partly

because communities have no real desire to pursue their own development opportunities or set their own planning 'rules' for their area. Nevertheless, where communities do want to take advantage of the new legislation, the city council should support communities, ensuring they understand what they are and what help they might get in preparing them. To date, we have had some interest from a few parish councils. Whilst mostly this has been limited to parish councils asking what neighbourhood planning is, one (Newborough Parish Council) has formally declared its intention, from 1 April 2012, to prepare a Neighbourhood Development Plan.

Alternative options, instead of neighbourhood planning

- 4.21 The SCI also touches upon what alternative options a local neighbourhood has if it does not want to undergo the somewhat lengthy (and potentially costly) formal neighbourhood planning process. This includes taking advantage of Supplementary Planning Documents (a number have been adopted over the past two years).

The National Planning Policy Framework

- 4.22 The draft NPPF and impact assessment can be viewed on-line here:

<http://www.communities.gov.uk/planningandbuilding/planningsystem/planningpolicy/planningpolicyframework/>

- 4.23 The National Planning Policy Framework (NPPF) is due to be published in the Spring. The Department for Communities and Local Government has received around 16,000 responses to the draft NPPF.

- 4.24 As part of the Government's continuing reform of the planning system through the Localism agenda, the draft National Planning Policy Framework (NPPF) intends to replace all existing national Planning Policy Statements (PPSs), all Planning Policy Guidance Notes (PPGs) and some Circulars into one single national planning policy document. Appendix B to this report provides a full list of all existing guidance to be replaced.

- 4.25 The NPPF will be a key material planning consideration in the determination of planning applications. At the same time, the council will no longer be able to rely on the existing detailed set of national guidance once this has been superseded by the NPPF.

- 4.26 Members may have read media reports at the point of publication of the draft NPPF, and it has certainly created debate amongst, in particular, those bodies which tend to lobby on 'environmental' issues. It is therefore worth emphasising to Members what the key thrust of the draft NPPF is, as officers see it:

- The NPPF does not propose a fundamental shift in the way the planning system operates. It still promotes (indeed reinforces) the plan-led system i.e. planning applications should be approved in accordance with up to date local planning policies.
- The NPPF aims to remove large elements of 'detailed' national guidance and instead focus on national priorities and rules only where Government thinks it is necessary to do so (with the aim of allowing local authorities and communities to produce their own plans that reflect local issues).
- The NPPF reflects what is already contained within the suite of PPSs, PPGs and Circulars, albeit at around 5% of the length of all those guidance notes. There is no fundamental shift in national policy – other than a new default position of 'yes' to sustainable development proposals where there is no plan, or where it is out-of-date or silent on an issue. (An up to date plan is defined as being one that is consistent with the National Planning Policy Framework. It will be open to local planning authorities to seek a certificate of conformity with the framework).
- The NPPF makes it clear that Government wants to ensure the planning system achieves growth and sustainable development (Government defines 'sustainable' as ensuring that better lives for us does not mean worse lives for future generations).
- The NPPF is very much 'pro-growth', with sustainable development being about positive growth.

- 4.27 A summary of the main points of the draft NPPF are as follows.

Protecting and Enhancing the Natural Environment

The draft framework:

4.28

- Retains protection for Areas of Outstanding Natural Beauty, National Parks, Sites of Special Scientific Interest and other environmental designations. It aims to improve the quality of the natural environment across England and halt the decline in habitats and species.
- Retains Green Belt protections.
- Sets out a new right for local communities to protect green areas of particular importance to them.
- Makes clear that local authorities should seek to ensure good access to high quality local public transport for new developments, with priority given to cyclists and pedestrians. It encourages decision makers to provide charging points for electric cars and other low emission vehicles. Schools, shops and other key facilities should be within walking distance of most properties, wherever possible.
- Requires the planning system to seek to protect and enhance biodiversity.
- Requires planners to seek to avoid noise pollution as a result of new developments, and to protect areas that are prized for their peace and quiet.
- Requires planners to limit the impact of light pollution by encouraging good design.
- Confirms planning's important role in tackling climate change and making the transition to a low carbon economy.
- Requires planning to ensure new development is future proofed against climate change.
- Requires planners to prevent unnecessary building in areas of high flood risk.
- Promotes growth for the telecoms industry, but reiterates that this growth should be sensitive to local areas.
- Aims to secure an adequate and steady supply of indigenous minerals needed to support sustainable growth, whilst limiting impact on the natural and local environment.

Promoting Sustainable growth and prosperity

4.29

The draft NPPF makes clear that local councils should be positive and proactive in encouraging sustainable growth and addressing barriers to investment by setting a clear economic vision and strategy based on understanding of local business needs.

Presumption in favour of sustainable development

4.30

The draft NPPF requires councils to work closely with businesses and communities to plan positively for the needs of the local area and provide sufficient flexibility to respond to rapid shifts in demand or other economic changes.

4.31

The presumption in favour of sustainable development is aimed at encouraging plan-making by councils and communities to meet local development needs; and will be applied if an up to date plan is not in place.

Housing

In terms of housing, the draft framework requires councils to:

4.32

- Be ambitious in delivering new homes that local communities need. The Local Development Framework must meet the full demand for market and affordable housing in their areas.
- Have a rolling five year supply of deliverable sites to meet their housing needs with at least 20% additional allowance to create competition and choice in the land market.
- Bring back into use empty homes and buildings wherever possible.

The draft framework removes the existing target specifying the levels of housing development that should take place on previously developed ('brownfield') land.

Town centres

- 4.33 The framework maintains the 'town centre first' policy approach which means that retail and leisure development should look for locations in town centres first, and only if suitable sites are not available, should decision makers look for edge of centre and then out of centre sites.

Historic Environment

- 4.34 The draft framework reaffirms protections for the historic environment and heritage. It requires councils to have up to date evidence about the historic environment in their areas and use it to assess the significance of heritage assets and the contribution they make to the environment.

Design

- 4.35 The framework requires the planning system to promote high quality design for all development. Local Development Frameworks, including any neighbourhood plans, should set out the quality of development expected for an area; ensuring development reflects the character and identity of local surrounding areas.

- 4.36 Developers will be expected to work closely with those directly affected by their proposals to evolve design proposals that take account of the views of the community.

How does existing and emerging Peterborough Planning Policy fit with the NPPF?

- 4.37 The council submitted a response to Government in October 2011. The response mainly focused on whether any important national policy had been 'lost' in the process, especially one which this council has relied upon in the past in helping to determine planning applications. Where it was felt important policy had been lost, it was requested that the Government publish additional technical guidance and good practice guides.

- 4.38 The city council is in a good position to fit with the draft NPPF. As Members will be aware, the council has a recently adopted Core Strategy, a Site Allocations Document which is going to full council for adoption in April, a collection of Supplementary Planning Documents (such as the one on development in villages), a well advanced Planning Policies Document, an adopted Minerals and Waste Core Strategy and an adopted Minerals and Waste Site Specific Proposals document. By having such an up to date set of 'local' plans in place, means that the council will still be able to take advantage of the brief national planning policy guidance in the NPPF whilst having the local policies in place to deliver high quality development.

- 4.39 Not many other local planning authorities are in as fortunate a position as this council is. Many other councils have far more limited, or even non-existent, up to date plans meaning that, on final publication of the NPPF, they will likely be subject to high levels of speculative, uncoordinated development proposals which will be hard to refuse.

- 4.40 It is important, therefore, that this council continues to make good progress in finalising its set of local planning policy documents, and ensures they remain up to date in the future

5. KEY ISSUES

- 5.1 Subject to Cabinet's approval on 26 March 2012, we propose to consult on a draft revised Statement of Community Involvement in April and May 2012.
- 5.2 The Localism Act has put in place much stronger requirements for developers to undertake consultation with communities prior to submitting a formal planning application to the city council. The Act also enables local planning authorities to prepare a local 'advice note' on this matter which a developer must have regard to when undertaking pre-application consultation.

- 5.3 To ensure the city council is well prepared in this regard, we set out in the SCI a draft 'advice note' and are seeking views on it. A final version will then be prepared, taking account of both the consultation response and any other guidance issued in the meantime nationally.
- 5.4 A second significant new section in the SCI is entitled 'Neighbourhood Planning in Peterborough'. This section sets out how the council intends to take forward the wide range of issues which come under the 'Neighbourhood Planning' section of the Localism Act.
- 5.5 The Government is due to publish the final NPPF in the Spring.

6. IMPLICATIONS

- 6.1 **Financial:** Preparation of an SCI has minimal costs, and can be met within existing budgets. Indirectly, the SCI commits the council to undertaking certain consultation tasks in the future. Most of these are of very low cost, and fall within existing established budgets. However, the Neighbourhood Planning requirements, which are new for 2012 onwards, will result in additional costs. The council has a statutory duty to support and facilitate Neighbourhood Planning and the 'service standards' set out in the draft SCI do not significantly increase our financial expenditure requirements compared with the statutory minimum service we must provide. Government has acknowledged that Neighbourhood Planning will incur an additional burden on councils (city council officers estimate the costs on the city council could be somewhere in the region of £20,000 per plan), and had previously indicated in 2011 to financially support councils accordingly in due course. However, to date, we are not aware of the level of that support, if any at all, and therefore this can not currently be relied upon, therefore costs will need to be absorbed from within existing budgets, primarily planning policy, until Government funding is forthcoming.
- 6.2 It should be noted that the draft SCI explicitly sets deadlines for receipt of various applications for receiving neighbourhood planning related matters from communities, as well as limiting the number of plans and orders the council is capable of facilitating in any given year (with waiting lists being put in place, if demand exceeds the council's ability to process proposals). This will ensure that a robust, fair and financially prudent process is in place to deal with Neighbourhood Planning, and explained in advance to communities. To not set such deadlines and thresholds could result in unlimited neighbourhood planning matters being fed through the council, each one with associated costs on the council which the council would be obliged to meet i.e. an unlimited financial liability on the council.
- 6.3 **Legal Implications:** The SCI, once adopted, must be adhered to by the council in the way it conducts its planning business. Failure to do so could result in legal challenges. However, the committee is only being asked to make comments on the draft for consultation, so there are no direct legal implications of this agenda report.
- 6.4 **Environmental:** there are no direct implications.

7. CONSULTATION

- 7.1 If the attached draft SCI document is approved by Cabinet, consultation with the public will take place during April and May 2012.
- 7.2 The council's response to the draft NPPF was approved by Councillor Hiller by Cabinet Member Decision Notice² in October 2011. Members of Planning Committee were consulted, as well as the Education, Finance and Legal departments. The government's consultation on the draft NPPF was open to the general public.

8. NEXT STEPS

- 8.1 Following consideration by the committee, the draft Statement of Community Involvement will be presented at the Cabinet meeting on 26 March 2012. If the SCI is approved by Cabinet, consultation with the public is expected to take place in April and May 2012.

² The decision details and the city council's response to the draft NPPF can be viewed here:
<http://democracy.peterborough.gov.uk/ieDecisionDetails.aspx?ID=536>

8.2 The National Planning Policy Framework is expected to be published in the Spring.

9. BACKGROUND DOCUMENTS

Used to prepare this report, in accordance with the Local Government (Access to Information) Act 1985

9.1 None.

10. APPENDICES

- 10.1
- The draft Statement of Community Involvement – Appendix 1
 - Which national policy documents will be cancelled when the NPPF is introduced? – Appendix 2