



**BATH & NORTH EAST SOMERSET CORE
STRATEGY EXAMINATION**

INSPECTOR'S NOTE ID/27

**IMPLICATIONS OF THE NATIONAL PLANNING
POLICY FRAMEWORK: COMMENTS FROM
ROBERT HITCHINS LIMITED**

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CONTENTS:

Page No:

1.	INTRODUCTION	1
2.	GENERAL	2
3.	GROWTH NEEDS	3
4.	DUTY TO CO-OPERATE	6

1. INTRODUCTION

- 1.1 The National Planning Policy Framework (NPPF) was published on the 27th March 2012 together with Technical Guidance which includes further guidance in relation to Flood Risk and other matters.
- 1.2 This response has been prepared on behalf of Robert Hitchins Ltd in response to the Inspector's invitation to comment on whether the NPPF materially alters National Policy compared with the previous Government policies (as set out in Planning Policy Statements and Planning Policy Guidance); and whether or not it is relevant to the soundness of the Core Strategy and the main issues identified for discussion during the Examination.
- 1.3 Robert Hitchins Ltd (RHL) take the view that the submitted Core Strategy was unsound prior to the revocation of the PPSs/PPGs and evidence for this has already been submitted. With the publication of the NPPF, RHL believe that the degree of unsoundness increases as there are substantial parts of the NPPF with which the BANES Core Strategy is in conflict.

2. GENERAL

- 2.1 Although we are aware that the NPPF replaces a substantial number of Guidance Documents from central Government (and to that extent constitutes a summary of the existing position), there are also a number of significant changes in Policy which are incorporated in the NPPF. Before going on to look at these it is important also to note that all the Guidance which is contained within the NPPF takes effect immediately i.e. on the 27th March 2012 (see Paragraph 5) of Planning Inspectorate Advice Note on the NPPF – 27th March 2012).
- 2.2 The most important policy changes identified by officials are set out in the NPPF Impact Assessment which is attached as Annex D to the aforementioned Planning Inspectorate Note.
- 2.3 Of these changes the most important is the new “presumption in favour of sustainable development” which is specifically defined in Paragraph 14 of the Framework. We are aware that PINs has produced a model policy and stated that that in order to be found sound all DPDs will need to contain a specific policy relating to the presumption in favour of sustainable development. At this point in time the BANES Core Strategy does not have the suggested model policy and therefore needs to be altered accordingly as part of the Inspector’s recommendation.

3. GROWTH NEEDS

- 3.1 A major part of RHL's case against the Core Strategy relates to the failure of the Authority to properly assess both housing and employment needs; the Council has deliberately chosen not to undertake a review of the Green Belt and to tailor both housing and employment needs to a level which does not necessitate any relaxation in the Green Belt boundaries.
- 3.2 We consider that the publication of the NPPF which emphasizes the importance of meeting the growth needs of this country, thereby assisting the climb out of the economic recession, places even greater emphasis on the need for growth and therefore increases the unsoundness of the Core Strategy. More particularly we would draw attention to the third of the bullet points set out in Paragraph 17 which highlights the "Core Planning Principles" of the NPPF. This third point indicates that one of the main principles which underpins Plan making should be the proactive drive and support for sustainable economic development to deliver the homes, business and industrial units, infrastructure and thriving local places that the country needs. It goes on to indicate that such needs should be objectively identified with a view to meeting the housing, business and other development needs of an area. Additionally, the aim should be to respond positively to wider opportunities for growth and that Plans should take into account market signals, such as land prices and housing affordability. Evidence already presented on this matter indicates that Bath in particular has both high land prices and high average housing prices generating the sort of market signals referred to in the NPPF.
- 3.3 Paragraph 47 (at the beginning of Sub Section 6 dealing with Delivering a Wide Choice of High Quality Homes) again emphasizes the need to use an evidence base to ensure that Plans meet the full, objectively assessed needs for market and affordable housing. As noted above, the existing Core Strategy does not undertake an objective assessment of housing needs but instead restricts housing provision solely to existing commitments and brownfield sites within the urban area. Therefore, as well as contravening earlier advice in PPS3 the Core Strategy continues to be out of accord with the advice in the new NPPF.
- 3.4 Paragraph 47 (second bullet point) refers to the need to provide 5 years supply of deliverable sites but adds in a new change in the form of a 5% flexibility allowance

which should be increased to 20% in the case of authorities which have a record of persistent under delivery of housing.

- 3.5 In this case we are aware that there has been a significant level of under delivery (in excess of 1,000 houses) compared to the last Local Plan housing requirement and that in these circumstances BANES Council should be seeking the provision of up to 6 years supply of residential land (5 Year supply plus 20%).
- 3.6 Although it is not a primary function of an Examining Inspector to assess the 5 Year land supply position, it is worth noting the advice contained in Paragraph 49 of the NPPF which again refers to the presumption in favour of sustainable development. In the second sentence of this paragraph it notes that relevant policies for the supply of housing should not be considered up-to-date if the Local Planning Authority cannot demonstrate a five-year supply of deliverable housing sites (in accordance with Paragraph 47). It is assumed that the lack of a 5 Year supply of land means that there is a need to refer back to the definition of “sustainable development” in Paragraph 14 and in particular to the advice for decision makers. The second bullet point under the second part of this definition indicates that planning permission should be granted unless there are impacts which would significantly and demonstrably outweigh the benefits or where there are specific policies in the Framework indicating that development should be restricted. However, the important point for the Inspector is that unless he is satisfied that a 5 Year supply of land exists at the beginning of the Core Strategy period then effectively the housing policies in that document should be regarded as out-of-date. Consequently it will be important for the Inspector to re-assess the housing land supply in the context of the revised requirements set out in Paragraph 47. In the event that there is not a 5 Year supply of land then the Inspector will need to identify additional land to meet the minimum requirement of the NPPF; or advise the Authority to undertake further work to identify such land.
- 3.7 So far as economic development is concerned Paragraphs 18 and 19 stress the importance which the Government attaches to encouraging the creation of jobs and prosperity and towards sustainable economic growth. Paragraph 20 indicates that all Plans should be “proactive” and that in the preparation of Local Plans authorities should set out a clear and economic vision and strategy for their area which encourages such growth.

- 3.8 We remain highly sceptical that the strategy adopted in the BANES Core Strategy can be described in these terms and therefore we believe that in economic terms the document does not comply with the growth requirements of the NPPF.

4. DUTY TO CO-OPERATE

- 4.1 The importance of the duty to co-operate is emphasised throughout the NPPF. It is evident that the Government attaches significant weight to the need for local authorities to work together, to initiate joint working and co-operation to address larger than local issues (paragraphs 17, paragraphs 156, 157, 158, 159, 160, 162 and 178 – 182).
- 4.2 Paragraph 178 of the NPPF states that public bodies have a duty to cooperate on planning issues that cross administrative boundaries. It particularly refers to strategic priorities (Paragraph 156) including homes and jobs needed in the area, provision of retail, leisure and other commercial development, provision of infrastructure, provision of health and climate change issues.
- 4.3 It is abundantly clear from the evidence produced to date that the Authority has not undertaken these assessments properly. In particular it does not comply with the advice in Paragraph 159 which states that when preparing Local Plans for their area, part of the evidence base should include the preparation of a Strategic Housing Market Assessment (SHMA) to assess their full housing needs, working with neighbouring authorities, where housing market areas cross administrative boundaries. Whilst this advice is not necessarily substantially different from the advice contained in the earlier documentation it makes it abundantly clear that BANES Council has not undertaken a proper SHMA; nor has it properly assessed the housing needs of the adjoining authorities which cannot be met in that area.
- 4.4 It is clear that the Core Strategy does not satisfy the tests in the NPPF, e.g. in paragraph 17 that “plans should be kept up-to-date and be based on joint working and co-operation to address larger than local issues”, paragraph 157 states that “Crucially, Local Plans should be based on co-operation with neighbouring authorities” and paragraph 178 which states that “public bodies have a duty to co-operate on planning issues that cross administrative boundaries, particularly those which relate to the strategic priorities set out in paragraph 156.
- 4.5 As we have set out in response to the Hearing Session on the Duty to Co-operate (15th March 2012) any consideration of the duty to co-operate (Section 110) gives rise to a substantive obligation on the authorities concerned to deliver clear agreed solutions to a problem. The duty to co-operate is not a procedural device for encouraging conversations between public agencies rather it :-

- **“Relates to sustainable development or use of land that would have significant impact on at least two local planning areas or on a planning matter that falls within a remit of a county council;**
- **Requires that councils set out planning policies to address such issues;**
- **Requires that councils and public bodies to “engage constructively, actively and on an ongoing basis” to develop strategies; and**
- **Requires councils to consider joint approaches to planning.”¹**

4.6 We have already demonstrated that there has been no substantive outcome from any of the meetings held between the authorities.

4.7 We remain of the view that, as the Localism Act came into effect before the adoption of the BANES Core Strategy, then there is a requirement to meet this provision. Moreover, the NPPF takes effect as from the 27th March 2012 and Inspectors will need to ensure that the “duty to co-operate” has been followed.

4.8 Contrary to the advice in Paragraph 181 of the NPPF BANES Council cannot demonstrate evidence of having effectively co-operated to plan for issues with cross boundary impacts. More importantly it is clear that this advice applies specifically to all Plans which are submitted for Examination suggesting that, as the examination of this Core Strategy has yet to be completed, that this test should be applied now.

4.9 We are aware that the Council has, at the suggestion of the Inspector, proposed a review of the Plan within 5 years (which the Inspector had included in the Bristol Core Strategy) to potentially consider such issues as housing delivery within BANES, the “duty to co-operate” with adjoining authorities, and other matters which may be unresolved. Since it is clear to us that the Council have not complied with either the statutory requirements in the Localism Act, or with the advice contained in Paragraphs 178 to 181 of the NPPF then there would be an urgent need to review the Plan rather than waiting for a full 5 Year period. The NPPF does not permit a review within 5 years, indeed in this context we note that Paragraph 213 of the NPPF indicates that there would need to be a revision to take account of the policies in the NPPF and that this should be undertaken as quickly as possible.

¹ A simple Guide to Strategic Planning and the Duty to Co-operate www.pas.gov.uk

- 4.10 Paragraph 214 goes on to suggest that, where there is a limited degree of conflict with the NPPF (which we would not claim to be the case in BANES), then the Council are allowed to give full weight to relevant policies adopted since 2004, but only for a 12 month period. Thereafter Paragraph 215 indicates that in all other cases and following the 12 month period the degree of weight should be reduced according to the degree to which there is consistency with the NPPF.
- 4.11 Most commentators are suggesting that this implies that all Councils with Plans which are not compliant with the NPPF need to be undertaking revisions to their Core Strategies/Local Plans within the 12 month period.
- 4.12 However, in this case this is not a viable option as the 12 month period in which to revise policies has already started from the date of the publication of the NPPF on 27th March 2012. The only realistic option, if the Core Strategy cannot be made compliant with the NPPF, is to find the Core Strategy unsound.