

**Representations on NPPF and its implications for
BANES Core Strategy
Submitted on behalf of Strategic Land Partnerships**



Representations are made in response to the publication of the National Planning Policy Framework (NPPF) published on 23rd March 2012 and the request from the Inspector (ID27) for comments to be submitted. These are structured in response to the Inspectors main points which are as follows:

Whether the NPPF significantly changes national policy in relation to the approach to assessing the housing requirement in a Local Plan.

Whether the new requirement for a 20% buffer in the 5 year land supply where there has been a record of persistent under delivery (NPPF, paragraph 47, 2nd bullet) should apply to Bath and North East Somerset (in the light of the evidence already submitted on past performance).

Whether an allowance can and should be the made for windfalls in the 5 year supply (NPPF, paragraph 48) and whether any such allowance should also be included in the supply for years 6-15.

Following on from the above, the Council needs to be clear whether it seeks any such allowance, what it should be and its justification. To assist my understanding of the matter, the Council should recalculate the figures for past small site windfalls (below the SHLAA threshold) which are set out in the SHLAA (CD4/H13 2.47-2.54) excluding all such development that was on residential gardens. Council to indicate whether there is accurate information to make this adjustment.

Summary

In summary there are three main points that need to be made in relation to the new NPPF and the implications for the BANES Core Strategy.

Firstly there are a number of new factors that must be taken into account in preparing a plan, specifically these are the achievement of Sustainable Development, the need to be based on co-operation across boundaries , a new definition of soundness to include the requirement for plans to be positively prepared, and the need to ensure viability and deliverability.

Secondly, there is also a new approach to the assessment of housing requirements, which is now expressed as 'need'. It is clear that this should be a robust assessment of market housing need in terms of demographics, age, tenure, type, size, mix, etc. While no methodology is established and no guidance is available, it must go much further than previous work, both undertaken in BANES and in other local authorities which have been found sound under previous tests and methodology.

Thirdly, there is compelling evidence of severe and persistent under delivery of housing as acknowledged by Council and by others in the statement of common ground.

New requirements to be met

Although a separate session has been held to discuss the 'duty to cooperate', many of the points raised by participants are relevant in relation to the NPPF. In particular there is a need to undertake joint working to address larger than local issues. There is a duty upon authorities to do this and to 'maximise the effectiveness' of these activities as set out in new S 33A (1). The new requirements at paragraph 157 now crucially require plans to 'positively plan for the development and infrastructure

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required', be based on 'co-operation with neighbouring authorities', and 'allocate sites to promote development and flexible use of land'.

The core planning principles at paragraph 17 include the need for plans to be 'based on joint working and cooperation to address larger than local issues' and proactively drive development. In that paragraph it goes on to state that 'every effort should be made objectively to identify and then meet the housing, business and other development needs of the area, and respond positively to wider opportunities for growth'.

There is an explicit requirement for plans to be prepared with the objective of contributing to the achievement of sustainable development. The NPPF is clear that there are three dimensions of sustainable development - an economic role, contributing to building a strong, responsive and competitive economy, a social role by providing the supply of housing required to meet the needs of present and future generations, and an environmental role. Paragraph 8 states that 'these roles should not be undertaken in isolation, because they are mutually dependent'. The positive improvements sought include making it easier for jobs to be created in cities, towns and villages, and widening the choice of high quality homes.

Paragraphs 15 of the NPPF states that all plans should be based upon and reflect the presumption in favour of sustainable development. Plans are required to reflect this presumption and have clear policies that will guide how it is applied locally. BANES have not got policies which do this. To comply with this requirement they also need to produce criteria based policies to show how they would bring forward sites given that they do not have a five year land supply and in the event of the plan being out of date.

The NPPF (para 152) makes clear the need to seek opportunities to achieve each of the economic, social and environmental dimensions and net gains across all three. Significant adverse impacts on any of these dimensions should be avoided. As has always been the case sustainable development it not a static concept it is about evaluation and dealing with integration and how this can be effectively achieved.

There is no requirement within the NPPF for development to be concentrated in main cities. This is a fundamental change to the basis on which the Core Strategy has been developed. The RSS explicitly sought to focus growth at 'strategically significant town and cities' and the current spatial strategy continues this approach. However, there is no longer a policy requirement to do this and given the constraints around Bath, it makes sense for this strategy to be revisited. The NPPF is generally supportive of development in a range of places taking account of the different roles and characters of different areas to create 'thriving local places'. The Council should therefore reconsider the distribution of development and pursue a strategy for greater dispersal which would focus more development on settlements such as Midsummer Norton which are not constrained by the green belt or AONB and which could accommodate sustainable development as defined in the NPPF.

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In terms of examining the plan, the tests of soundness are now different. Para 182 is clear that to be sound the plan must be 'positively prepared'. This means that it should be based on a strategy which seeks to meet objectively assessed development and infrastructure requirements, including 'unmet requirements from neighbouring authorities where it is reasonable to do so and consistent with achieving sustainable development'. The unmet requirement for the West of England is specified below at figure 1. This test is relevant now, and was not the test which either the Bristol or North Somerset Core Strategies were examined against.

The shaded box at paragraph 14 of the NPPF provides a succinct summary of the essential issues relating to the presumption in favour of sustainable development. This is the requirement for plan making authorities to 'positively seek opportunities to meet the development needs of their area' and 'meet objectively assessed needs, with sufficient flexibility to adapt to rapid change'. However, the Core Strategy is not a plan for growth, the approach taken at all stages of the process is to impose ceilings on development and seek to constrain rather than encourage the growth and development of the area.

Increased emphasis is given in the NPPF to identifying specific deliverable sites, which need to be available, in a suitable location and with realistic prospect of viable delivery. The NPPF now explicitly recognises in paragraph 173 that pursuing sustainable development requires 'careful attention to viability and costs in plan making' to ensure viability and 'provide competitive returns to a willing landowner and willing developer'.

From the evidence before the Inspector in the form of the Core Strategy and the various Council papers it is clear that this plan is not positively seeking opportunities for development, it is based on a spatial strategy which no longer has policy support, and it has not objectively assessed need and does not ensure sufficient flexibility. It is also not 'aspirational' as paragraph 154 requires it to be.

A new approach to assessing the housing requirement

The NPPF clearly establishes a new framework for assessing the housing requirement. This different approach is about understanding need in its broadest sense, and not just affordable housing need, as has previously been associated with the term. Traditionally housing needs assessments follow a methodology set out by Government (Nov 2010) and are used to inform both housing and planning policies, particularly around the provision of affordable housing. This is not what the NPPF now refers to as objectively assessed need.

Section 6 of the NPPF seeks to deliver a wide choice of high quality homes and all the proceeding points are set within the context of what local authorities should do 'to boost significantly the supply of housing' (para 47). It requires an evidence base to ensure their local plan 'meets the full, objectively assessed needs for market and affordable housing in housing market area'. The 'full' need includes all need as identified in the SHMA. This is considerably in excess of the level of provision, and the Council have not provided any indication of why they are not meeting this need and what the implications of this are.

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There are significant needs in BANES which should be acknowledged and understood in the context of the housing market. The term 'need' in the NPPF is used to mean requirement, and relates to its definition as "a lack of something deemed necessary."

There is currently no adopted methodology for 'objectively assessed housing need'. While the previous guidance in PPS3 provided a comprehensive list of sources of information, this has not been carried through into the NPPF. However, some guidance is produced relating to delivering a wide choice of high quality homes in paragraph 50 which identifies that local authorities should 'plan for a mix for housing based on current and future demographic trends and the needs of different groups in the community; identify the size, type, tenure and range of housing that is required in particular locations, reflecting local demand'. This obviously refers to all housing (particularly open market housing) because it then goes on to say that 'where they have identified that affordable housing is needed, set policies for meeting this need on site.'

The requirement for a SHMA is set out at paragraph 159 to assess their full housing needs, working with neighbouring authorities. A SHMA was done for West of England in 2009 which used RSS figures, 2004 based projections. It is necessary to update this to understand the more recent implications for BANES specifically and importantly at the very local (ward and parish) level to understand community needs in terms of the type of households that are growing and their requirements. The Council cannot demonstrate how they are intending to meet this huge unmet affordable housing need as demonstrated by the SHMA and housing register.

To be robust and objective any approach should use appropriate evidence such as national, regional and local projections, forecasts, births, dates and migrations rates, information about market trends and demand, household formation and headship rates, economic potential and ambitions, to understand the population of BANES, Bath, its market towns and rural areas, the likely changes in the future and how these will be translated into housing requirements, in terms of the mix of housing for household types, the location of these new dwellings their size and tenure. This approach has not been used to set the housing requirement in BANES.

Neither the B&NES Future Housing Growth Requirements to 2026: Stage 2 Report or BNES/26 (Housing technical Requirement, Planned Provision & Flexibility) paper provide any assessment of need which accords with the requirements of the NPPF, particularly in terms of the requirements set out in paragraph 50. The Council should provide a detailed and robust understanding of their area in terms of the different groups within the communities that exist now and are forecast to be present in BANES in the future and their needs in terms of their age structure and household type and indicate how this will translate in size, type and tenure required for future open market, as well as affordable housing. This lack of evidence about the needs of the communities is a failure which means it is not in conformity with the NPPF requirements, and will have significant consequences for the soundness of the Core Strategy.

A new requirement for a 20% buffer and windfall sites

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There is considerable evidence of persistent under delivery of housing in BANES. This evidence consists of past rates, persistent allocation of complicated sites which either have taken a considerable time to come through the pipeline, or have not yet been delivered, a lack of adequate consideration of delivery and viability issues and the Council's own admission of shortfall against previous targets as set out in statements to the Inspector (BNES/26 and BNES/32).

Past completion rates provide evidence of persistent under delivery. Between 1989 and 2010 the average annual completion rates were only 382 dwellings per annum (dpa) compared with a local plan target of 457 dpa. BNES/32 (Draft Statement of Common Ground on Local Plan Backlog, Core Strategy Shortfall, General Conformity with RPG10 and calculating the 5 year Housing Land Supply Requirement) acknowledges that the Council has consistently underprovided by over 100 dwellings per year between 1996 – 2011. This translates into a combined shortfall and backlog of 1,634 dwellings. This has been agreed by the Council and is clear demonstration of the consistent under delivery of housing against all the previous targets.

Delivery of allocated sites has consistently been a problem. At the Local Plan Inquiry in 2005, the Council predicted that 800 flats would be completed at Bath Western Riverside by April 2011, however throughout the Inquiry this was reduced to an expectation of between 400 – 650 units. The scheme is still some considerable time from delivering any completions. In assessing whether sites are deliverable the Council has failed to understand the meaning of deliverability in terms of its definition now clearly set out at footnote 11 and 12 on page 12 of the NPPF. In particular ensuring those sites can be developed within the stated timescale and are viable. The inclusion of sites with unrealistic start dates and completion rates within the 5 year supply demonstrates this lack of objective assessment and understanding of deliverability. For example the 2009 AMR identifies 3016 dwellings in the Bath Western Riverside; however outline planning permission in December 2010 was for 2281 dwellings. Experts in housing delivery (house builders) consider that an average completion rate of 120 dpa on this site is the maximum that could be relied upon, providing a total of 1700 completion by 2026, a significant under delivery against the current SHLAA expectations of delivering all the units by 2026.

The Council is required to have a 5 year land supply and identify specific developable sites. This test has been strengthened in the NPPF and paragraph 47 and its footnotes explain the meaning of deliverable and viable. The Council's trajectory which supports the SHLAA demonstrates that the supply over the next 5 years is only 3,346. This figure is challenged by numerous objectors and there is a significant shortfall in provision relative to the cumulative requirement every year until 2016/17. On no basis is there an argument that the Council have an adequate five year land supply. BNES/32 sets out a number of scenarios, most of which indicate housing requirement figures which are significantly in excess of the available 5 year supply. As acknowledgement of under delivery a 20% buffer figure has been calculated for each of the scenarios and the resulting figures demonstrate that the buffer required by the NPPF cannot be met. Consequently, more land is required to meet this test, in terms of providing an adequate supply of deliverable houses and also to provide an additional 20% to ensure choice and competition.

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The NPPF recognises that an allowance for windfall sites can be included in the five year land supply; however, these sites need to be deliverable which is defined as being available now. If they are available now they must be known and as such are identified in the SHLAA, and cannot be windfalls. It appears that the BANES SHLAA includes sites of 5 or more dwellings and as such should identify the majority of all potential future sites. It is important that these identified small sites and any future windfalls allowance are clearly recognised as separate components to ensure that they are not double counted. If an allowance is to be included using annual assumptions, rather than identified sites there must also be a reasonable discount applied for non-implementation.

There is irrefutable evidence of a record of persistent under deliver of housing across Bath and North East Somerset. Therefore the 20% buffer as required by the NPPF should be applied to this Core Strategy to provide a realistic prospect of achieving the planned supply and to ensure choice and competition in the market for land.

As has been raised previously by other participants at the examination there are serious consequences of under delivery of the unmet need both for BANES and across the wider sub regional area. The table below illustrates the scale of (73,500) this under delivery of housing using latest 2008 household projection figures as a basis of ‘objectively assessed need’.

	Household projections 2008 CLG	Core Strategy Provision	Under delivery
BANES	16,000	11,500 (D)	4,500
South Glouc	32,000	26,400 (D)	5,600
Bristol	72,000	30,600 (target) (A)	41,400
North Somerset	36,000	14,000 (A)	22,000
TOTAL	156,000	82,500	73,500

Figure 1: A – Adopted D – Draft

Conclusion

The policy changes in the NPPF are substantial and have a material bearing on the soundness of the Core Strategy. As it is currently stands the Core Strategy is unsound, already out of date, and does not meet the requirements of the NPPF. Considerable modifications are necessary to address these new policy issues. Under no circumstances can an unsound plan be made sound by a recommendation to review it in a few years. Any attempt to try and remedy deficiencies in the future rather than now should be resisted by the Inspector.

In conclusion the Council should substantially modify their Core Strategy and housing assessment to take account of the new requirements of the NPPF. There should be a far more robust approach adopted to the housing requirement which identifies and understands the objective needs that exists and demonstrates how their proposed sites meet these needs and are deliverable and viable. As part of this reassessment it will be necessary for BANES to revise their housing figures and trajectory. Consequently, further work needs to be undertaken and a considerable number of modifications are required.