

Joint Local Plan Review for West Dorset, Weymouth and Portland

NEIGHBOURHOOD DEVELOPMENT PLANS BACKGROUND PAPER

PREFERRED OPTIONS CONSULTATION VERSION

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1. Introduction

PURPOSE OF BACKGROUND PAPER

- 1.1 This document is one of a number of background papers produced to support the West Dorset, Weymouth & Portland Local Plan Review. This background paper provides a general overview of issues relevant to Neighbourhood Development Plans. It is a working document which will be updated as evidence is acquired and the consultation process proceeds.

LOCAL PLAN AND THE REVIEW

- 1.2 In October 2015, West Dorset District Council and Weymouth & Portland Borough Council adopted their Joint Local Plan¹. In his report on the examination of the local plan, the Inspector indicated that he considered it to be "*imperative that an early review is undertaken*". The objective of the review is to identify additional housing land capable of meeting housing need to 2036. Through the Local Plan Review the councils will also consider revisions to other policies in response to changes in national policy and legislation.

NATIONAL POLICY AND GUIDANCE

LEGISLATION

- 1.3 Neighbourhood planning was first introduced by the **Localism Act 2011**. It allows qualifying bodies (town and parish councils or neighbourhood forums) to formulate neighbourhood development plans and orders, which can guide and shape development in their particular area. The draft plans must pass an independent examination. If they pass they must then be put to a local referendum. If the majority of those who vote are in favour the local planning authority must adopt the plan, subject to its legal compatibility. A neighbourhood plan is given the same legal status as a local plan once it has been agreed at a referendum and is "made" (brought into legal force), by the local planning authority. At this point it becomes part of the statutory development plan. Applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise.
- 1.4 The **Housing and Planning Act 2016** introduced measures designed to simplify and speed up the neighbourhood planning process. It also allowed for greater intervention by the Secretary of State in the process of making a neighbourhood plan.

¹ <https://www.dorsetforyou.gov.uk/jointlocalplan/west/weymouth>

- 1.5 The **Neighbourhood Planning Act 2017** gives weight to Neighbourhood Plans in draft form once they have passed the referendum stage. It introduces a process for modifying Neighbourhood Plans which have come into force. The designation of a Neighbourhood Forum can cease to have effect if a new or amended Parish Council boundary overlaps with the relevant Neighbourhood Area. The local planning authority may change the Neighbourhood Area boundaries, to divide a single Neighbourhood Area into multiple areas, and to consolidate multiple areas into fewer. If, after using these powers, a Neighbourhood Plan relates to more than one Neighbourhood Area, then there is provision that the replacement of the Plan in one area shall not affect its force in the other areas.
- 1.6 The Neighbourhood Planning Act 2017 also requires each local planning authority to set out their policy for discharging their duty to give advice or assistance to qualifying bodies and identify the strategic priorities for the development and use of land in their area.

NATIONAL POLICY

- 1.7 The National Planning Policy Framework (2018) paragraph 29 states that *"Neighbourhood planning gives communities the power to develop a shared vision for their area. Neighbourhood plans can shape, direct and help to deliver sustainable development, by influencing local planning decisions as part of the statutory development plan. Neighbourhood plans should not promote less development than set out in the strategic policies for the area, or undermine those strategic policies."*
- 1.8 Paragraph 13 explains that *"Neighbourhood plans should support the delivery of strategic policies contained in local plans or spatial development strategies; and should shape and direct development that is outside of these strategic policies."* Plans should make explicit which policies are strategic policies.
- 1.9 Paragraph 30 continues *"Once a neighbourhood plan has been brought into force, the policies it contains take precedence over existing non-strategic policies in a local plan covering the neighbourhood area, where they are in conflict; unless they are superseded by strategic or non-strategic policies that are adopted subsequently."*
- 1.10 Paragraph 14 introduces additional protection for neighbourhood plan areas where applications for housing are made that conflict with the neighbourhood plan. National policy effectively defines the circumstances where the adverse impact of allowing development that conflicts with a neighbourhood plan would be considered to significantly and demonstrably outweigh the benefits. This policy is an evolution of the previous Ministerial Statement dated 12 December 2016.
- 1.11 Paragraph 216 continues that for the purpose of paragraph 14: up to and including 11 December 2018, paragraph 14a also includes neighbourhood plans that became

part of the development plan more than two years before the date on which the decision is made and from November 2018 to November 2019, housing delivery should be at least 25% of that required over the previous three years, as measured by the Housing Delivery Test.

- 1.12 The revised NPPF outlines a new approach for the calculation of minimum housing numbers in local and neighbourhood plans. Housing need for Local Plans will now be calculated using a standard methodology (paragraph 6o). For Neighbourhood Plans, paragraph 65 states *"Within this overall requirement, strategic policies should also set out a housing requirement for designated neighbourhood areas which reflects the overall strategy for the pattern and scale of development and any relevant allocations."* Once the strategic policies have been adopted, these figures should not need re-testing at the neighbourhood plan examination.
- 1.13 Paragraph 66 clarifies that *"Where it is not possible to provide a requirement figure for a neighbourhood area, the local planning authority should provide an indicative figure, if requested to do so by the neighbourhood planning body. This figure should take into account factors such as the latest evidence of local housing need, the population of the neighbourhood area and the most recently available planning strategy of the local planning authority."*

PLANNING PRACTICE GUIDANCE

- 1.14 Planning practice guidance explains the neighbourhood planning system introduced by the Localism Act, including key stages and considerations required.
- 1.15 In answering the question, what evidence is needed to support a Neighbourhood Plan, planning practice guidance notes there is no 'tick box' list of evidence required for neighbourhood planning. Instead, proportionate, robust evidence should support the choices made and the approach taken. The evidence should be drawn upon to explain succinctly the intention and rationale of the policies in the draft neighbourhood plan.
- 1.16 Neighbourhood planning groups may wish to consider what infrastructure is needed to support development and ensure that a neighbourhood can grow in a sustainable way. Qualifying bodies should engage infrastructure providers (e.g. utility companies, transport infrastructure providers and local health commissioners) to determine what additional infrastructure may be needed, how any additional infrastructure requirements might be delivered and what impact the infrastructure requirements may have on the viability of a proposal.
- 1.17 Planning Practice continues, if the policies and proposals are to be implemented as the community intended a neighbourhood plan needs to be deliverable. The NPPF requires that the sites and the scale of development identified in a plan should not

be subject to such a scale of obligations and policy burdens that their ability to be developed viably is threatened.

MINISTERIAL STATEMENT

1.18 The Ministerial Statement dated 12 December 2016 sets out that relevant policies for the supply of housing in a neighbourhood plan, that is part of the development plan, should not be deemed to be 'out-of-date' under paragraph 49 of the 2012 NPPF where all of the following circumstances arise at the time the decision is made:

- this written ministerial statement is less than 2 years old, or the neighbourhood plan has been part of the development plan for 2 years or less;
- the neighbourhood plan allocates sites for housing; and
- the local planning authority can demonstrate a three-year supply of deliverable housing sites.

2. Current Approach

- 2.1 The adopted West Dorset, Weymouth & Portland Local Plan (2015) contains policy SUS5, which relates to neighbourhood development plans.

POLICY SUS5: NEIGHBOURHOOD DEVELOPMENT PLANS

- 2.2 The main provisions of Policy SUS5 of the current local plan are set out below.
- 2.3 Neighbourhood Development Plans should show how they are contributing towards the strategic objectives of the local plan and be in general conformity with its strategic approach. Neighbourhood plans should also clearly set out how they will promote sustainable development in their area at the same level or over and above that which would otherwise be delivered through the local plan. Communities in preparing plans should have due regard to information on local need for new homes, jobs and facilities, for their plan area and any outlying areas which they may serve. Plans should demonstrate that they are credible, justifiable and achievable. This can be assisted by involving landowners, developers and service providers in their preparation.

3. Proposed Approach

- 3.1 A neighbourhood development plan forms part of the development plan for an area and sits alongside the local plan (or local plan review) prepared by the local planning authority. Planning applications in the local plan review area will be determined using both the local plan review (once adopted) and any 'made' neighbourhood development plans; and by having regard to any material considerations.
- 3.2 Before a draft neighbourhood development plan can proceed to referendum and be 'made', it needs to be examined and the role of an independent examiner is to test whether or not it meets the 'basic conditions', set out in paragraph 8(2) of Schedule 4B to the Town and Country Planning Act 1990 as applied to neighbourhood development plans by section 38A of the Planning and Compulsory Purchase Act 2004. In summary these are:
- To have regard to national policies and advice contained in guidance issued by the Secretary of State;
 - to contribute to the achievement of sustainable development;
 - to be in general conformity with the strategic policies of the development plan for the area;
 - to be compatible with and not breach European Union (EU) obligations; and
 - to meet other prescribed conditions².
- 3.3 Groups preparing neighbourhood plans must have regard not only to national planning policies, but also to advice contained in national guidance if they are to meet the basic conditions. With that in mind, Policy SUS₅ of the adopted local plan (Policy SUS₄ in the Preferred Options) has been updated to provide clearer advice on how this might be achieved. In particular, the updated policy and supporting text deal with the issues of:
- contributing to the local plan review's strategic priorities and conformity with its strategic policies;
 - the need for proportionate and robust evidence;
 - infrastructure needs; and
 - deliverability.

² The 'basic conditions' are explained in more detail here in national guidance - <https://www.gov.uk/guidance/neighbourhood-planning--2#basic-conditions-for-neighbourhood-plan-to-referendum>

3.4 These issues are discussed in more detail below.

STRATEGIC PRIORITIES AND STRATEGIC POLICIES

- 3.5 National policy indicates that the ambition of a neighbourhood should be aligned with the strategic needs and priorities of the wider area. Section 1.3 of the local plan review establishes a vision for West Dorset, Weymouth & Portland and identifies a set of strategic priorities. In order to reflect national policy, neighbourhood development plans should be prepared to positively contribute to the local plan review's vision and strategic priorities.
- 3.6 National policy indicates that a neighbourhood development plan should support the strategic development needs set out in a local plan and the 'basic conditions' require that a neighbourhood development plan must be in general conformity with the strategic policies of a local plan. As a result, a neighbourhood development plan should not: promote less development in the neighbourhood area than is set out in the local plan review; undermine the local plan review's strategic policies; or be used to constrain the delivery of a strategic site allocated for development.
- 3.7 The strategic 'topic-based' policies in the local plan review are those that take forward the 'strategic approach' set out in each of Chapters 2 to 6. Strategic housing allocations are those that will deliver more than 50 new homes and strategic employment allocations are those identified as 'key employment sites'. A few policies in the local plan review have both strategic and non-strategic aspects. For example, Policy SUS2 seeks to 'strictly control' development outside DDBs, but the 'strategic approach' also recognises that neighbourhood development plans may bring forward new development, and may allocate additional sites, or extend an existing (or add a new) DDB to help deliver growth. Further information on strategic and non-strategic policies (including policies that include both strategic and non-strategic aspects) is set out in Appendix 1 of the Preferred Options consultation document.
- 3.8 Neighbourhood development plans should be prepared: to reflect the local plan review's strategic approach; and to be in general conformity with its strategic policies and the strategic element of policies that have both strategic and non-strategic aspects.

PROPORTIONATE AND ROBUST EVIDENCE

- 3.9 Proportionate and robust evidence is required to show how a neighbourhood development plan would guide development to sustainable solutions and contribute to sustainable development (which is one of the 'basic conditions'). The

evidence should aim to justify not only the approach taken in the plan, but should also support the choices made and the rejection of any alternatives considered.

INFRASTRUCTURE NEEDS

- 3.10 Consideration should be given to the infrastructure needed to support development (such as homes, shops or offices) proposed in a neighbourhood development plan. Engagement with infrastructure providers (e.g. utility companies, transport infrastructure providers and local health commissioners) may be necessary to determine what infrastructure is needed to support growth. Where a need for new or enhanced infrastructure is identified, a neighbourhood development plan should set out the prioritised infrastructure required to address the demands of the development proposed.

DELIVERABILITY

- 3.11 If policies and proposals are to be implemented as a community intends, then a neighbourhood development plan needs to be deliverable. National guidance indicates that landowners and developers should be involved in preparing neighbourhood development plans to avoid placing unrealistic pressures on the cost and deliverability of development. Infrastructure requirements may have implications for the viability of a site-based proposal and viability may also be an issue in relation to a policy (for example a policy to seek a higher level of affordable housing locally). In such circumstances it may be necessary to assess the viability of policies or proposals to ensure that they are deliverable.
- 3.12 Policy SUS4 from the Preferred Options consultation document is set out below.

SUS4. NEIGHBOURHOOD DEVELOPMENT PLANS

Neighbourhood development plans should be prepared:

- i) to positively contribute to the local plan review's vision and strategic priorities; to reflect its strategic approach; and be in general conformity with its strategic policies;**
- ii) based on proportionate and robust evidence;**
- iii) to identify the infrastructure needed to support development; and**
- iv) to ensure that the policies and proposals are deliverable.**

3.13 The Preferred Options consultation document also asks the following question:

13-viii former Policy SUS₅ (now SUS₄) has been updated to provide clearer advice on how neighbourhood development plans should be prepared to meet the 'basic conditions' and comply with national guidance. Do you have any comments on new Policy SUS₄?

HOUSING REQUIREMENT FIGURES FOR NEIGHBOURHOOD DEVELOPMENT PLANS

- 3.14 The Local Plan Review - Preferred Options document has been prepared on the basis of the draft revised NPPF (March 2018) and not the final revised NPPF (July 2018) as this document was not available at the time of drafting the Plan. The Local Plan Review will however be updated in due course to reflect national policy set out in paragraphs 65 & 66 of the final revised NPPF.
- 3.15 The draft revised NPPF indicated that local plans should set out a housing requirement figure for designated neighbourhood areas (i.e. any area for which a neighbourhood plan is being prepared). For any neighbourhood area designated after the adoption of a local plan, a local planning authority should provide an indicative figure, if requested to do so.
- 3.16 The draft revised NPPF did not prescribe a methodology for setting housing requirements at the neighbourhood level, but indicated that any indicative figure should take account of factors such as:
- the latest evidence of local housing need;
 - the population of the neighbourhood area; and
 - the most recently available planning strategy for the local planning authority.
- 3.17 The councils are, therefore, seeking views on a possible approach, based on the factors outlined above.
- 3.18 The 'local housing need' for a local plan area should be assessed using the standard methodology in national planning guidance. Policy SUS₁ establishes a need for 15,880 dwellings (or 794dpa) for the period 2016 to 2036 and Table 3.4 shows that the overall level of housing development proposed significantly exceeds the assessed local housing need.
- 3.19 The overall planning strategy for the distribution of development in the local plan review area is set out in Policy SUS₂. Tables 3.3 and 3.4 confirm that the full assessed local need for housing can be met at the ten locations in the top two tiers of the settlement hierarchy.

- 3.20 Having regard to local housing need and the planning strategy, it is proposed that housing requirement figures for neighbourhood areas will be calculated differently in the main locations for growth and elsewhere.
- 3.21 For any neighbourhood area containing one of the ten locations in the top two tiers of the settlement hierarchy, it is proposed that any housing requirement figure would be the sum of:
- completions since 2016;
 - extant planning permissions;
 - housing allocations;
 - capacity on major sites within DDBs identified in SHLAA; and
 - a windfall allowance on minor sites.
- 3.22 Neighbourhood development plans for the 10 main settlements would not need to identify any additional land to meet the overall plan review area housing need figure. However, in the event that they intended to delete or propose a different use on a non-strategic housing (or mixed use) site, sufficient housing provision would need to be made on other sites to ensure that the neighbourhood plan did not promote less development than set out in the local plan review.
- 3.23 In rural areas (i.e. excluding the settlements in the top two tiers of the settlement hierarchy), it is proposed that a housing requirement for any neighbourhood area containing a settlement with a DDB defined through the local plan or local plan review should plan for a level of housing growth which would increase the population of the neighbourhood planning area by a minimum of 5% over a 20-year period. Any neighbourhood area which does not contain a settlement with a DDB defined through the local plan or local plan review, should plan for a level of housing growth which would increase the population of the neighbourhood planning area by a minimum of 2% over a 20-year period. In either case neighbourhood plan groups may wish to focus on housing provision which would meet 'local' (i.e. village / parish / group of villages or parishes needs), for example needs for: affordable housing; self-build housing; or homes for the elderly, including homes for local older people to downsize.
- 3.24 The Preferred Options consultation document also makes it clear that any housing requirement established in this way should only be used to inform the preparation of neighbourhood development plans. They should not be used as sub-area targets in housing land supply (including five-year housing land supply) calculations.
- 3.25 In relation to housing requirement figures for neighbourhood plans, the Preferred Options document asks the following question:

3-ix Do you have any comments on the proposed approach to establishing housing requirement figures (and indicative figures) for designated neighbourhood areas?