

Neighbourhood Planning Guidance

Conformity Advice: Basic Conditions and Strategic Policies

July 2017

1 Background Context

1.1 This note provides those undertaking neighbourhood planning with advice around conformity with the strategic policies and the required Basic Conditions tests. In line with the National Planning Policy Framework, NPPF paragraph 184 and the Planning Practice Guidance¹ local planning authorities are required to set out clearly their strategic policies. This guidance note provides the strategic framework for neighbourhood planning, sets out the policy context for conformity tests by the local authority and that of the independent examiner. All neighbourhood plans must demonstrate this conformity and meet certain “basic conditions”.

1.2 Paragraph 184 of the National Planning Policy Framework (NPPF) states that:

“The ambition of the neighbourhood should be aligned with the strategic needs and priorities of the wider local area. Neighbourhood plans must be in general conformity with the strategic policies of the Local Plan. To facilitate this, local planning authorities should set out clearly their strategic policies for the area and ensure that an up-to-date Local Plan is in place as quickly as possible. Neighbourhood plans should reflect these policies and neighbourhoods should plan positively to support them. Neighbourhood plans and orders should not promote less development than set out in the Local Plan or undermine its strategic policies.”

Paragraph 185 goes on to say that:

“Outside these strategic elements, neighbourhood plans will be able to shape and direct sustainable development in their area.”

1.3 A neighbourhood plan can seek to add local distinction to reflect the specific Neighbourhood Area as long as the approach is **justified and evidenced**. Neighbourhood plans should **address the issues in each defined area** (i.e. they are locally distinctive) **and add value** to the existing policy framework. They should not repeat national policy or seek to duplicate existing non-strategic process and policies. Local Plan policies are part of the development plan and will be taken into consideration whether they are included in your neighbourhood plan or not. Neighbourhood plans can include policies that differ from non-strategic local planning policies and or introduce new policies -providing they are in general conformity with the strategic priorities and strategic local planning policies.

¹ National Planning Practice Guidance Paragraph: 077 Reference ID: 41-077-20140306

- 1.4 It is also important to remember that only policies dealing with land use can form part of a neighbourhood plan. **The starting point should be to develop a good understanding of the District's planning policies and how these relate to the Neighbourhood Plan Area and issues identified.**
- 1.5 The Council would encourage neighbourhood plan groups to seek early and continuous engagement and dialogue around emerging neighbourhood plans topic areas and policy wording and seek informal feedback during its development and prior to the formal pre submission consultation – which is required under regulation 14 of the Neighbourhood Planning (General) Regulations 2012. It is at this stage that formal comments on the approach, structure, content and policies will be given.
- 1.6 Following the pre submission consultation and once the Council has received a proposed plan under Regulations 15 and 16 of the Neighbourhood Planning (General) Regulations 2012 the Council is required to formally review the proposed plan and submission documents against the Legal Framework. Once satisfied that this has been followed it will then invoke Regulation 16 which consists of publishing the proposed neighbourhood plan, seeking representations on it from those who live, work or carry on business in the Neighbourhood Area and appointing an independent examiner who will assess whether the plan meets the basic conditions and recommends whether or not the plan should proceed to referendum.
- 1.7 The examiner may recommend modifications that are necessary to ensure that the plan meets the basic conditions, before proceeding to referendum. Significant modifications may trigger a need to return the plan to an earlier stage.
- 1.8 The examiner's report carries considerable weight, but it is not binding. The local authority has the final responsibility for determining whether the plan meets the basic conditions, whether any modifications are necessary and should be consulted on, and consequently whether to proceed to the referendum stage.
- 1.9 **It is therefore important that there is an understanding early on around conformity with the basic conditions and the existing development plan.**

2 Basic Conditions

2.1 Only a draft Neighbourhood Plan that meets **each** of the set of “Basic Conditions” can be put to a referendum and be “made”. The Basic Conditions are set out in paragraph 8(2) of Schedule 4B to the Town and Country Planning Act 1990 as applied to neighbourhood plans by section 38A of the Planning and Compulsory Purchase Act 2004. The basic conditions for *Neighbourhood Development Plans* are:

- having regard to national policies and advice contained in guidance issued by the Secretary of State it is appropriate to make the neighbourhood plan;
- the making of the plan contributes to sustainable development;
- **the making of the plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area);**
- the making of the plan does not breach, and is otherwise compatible with, EU obligations;
- prescribed conditions are met in relation to the Order (or neighbourhood plan) and prescribed matters have been complied with in connection with the proposal for the Order (or neighbourhood plan).
- In addition neighbourhood plans must be compatible with Human Rights requirements.

2.2 The national Planning Practice Guidance (PPG) provides comprehensive web based guidance for the planning system which all Plans and Programmes should be in general conformity with. In many cases the guidance adds detail and interpretation of the NPPF which neighbourhood planners need to conform with e.g. for those neighbourhood plans considering additional site allocation or designation of Local Green Space the guidance provides criteria based methodologies that should be followed. Failure to apply these will result in non-compliance and have serious implications for the emerging Neighbourhood Plan.

2.3 The PPG at [Reference ID: 41-074-20140306](#) advises that the basic condition relating to ‘general conformity’ with strategic policies contained in the Local Plan should consider the following:

- whether the neighbourhood plan policy or development proposal supports and upholds the general principle that the strategic policy is concerned with;
- The degree, if any, of conflict between the draft neighbourhood plan policy or development proposal and the strategic policy;
- whether the draft neighbourhood plan policy or development proposal provides an additional level of detail and/or a distinct local approach to that set out in the strategic policy without undermining that policy;
- the rationale for the approach taken in the draft neighbourhood plan and the evidence to justify that approach.

District Development Plan and emerging Local Plan

2.4 Legislation² requires that decisions are made in accordance with the Development Plan unless material considerations indicate otherwise.

2.5 The Development Plan for North Norfolk currently comprises:

- The Core Strategy incorporating Development Control Policies (2008);
- The Site Allocations Development Plan Document (2011);
- The North Norfolk Design Guide, Supplementary Planning Document (2008);
- The North Norfolk Landscape Character Assessment, SPD (2009);
- The adopted Norfolk Minerals and Waste Development Framework (2010 – 2026).

2.6 Further information on the Development Plan is available at:

<https://www.north-norfolk.gov.uk/section/planning/planning-policy>

Emerging Local Plans

2.7 An emerging Local Plan would not constitute part of the statutory development plan. However, it still needs to be considered by neighbourhood planning bodies.

- The more developed an emerging Local Plan is the more weight it carries;
- The evidence behind an emerging Local Plan remains relevant and is likely to form part of the evidence base for any neighbourhood plans within the local plan area;
- Where local and neighbourhood plans have conflicting policies, the later plan will carry more weight. To avoid the risk of policies in a neighbourhood plan being superseded by a later local plan, it is necessary for the two plans to work in a complementary way.

2.8 Government advice is clear and the Planning Practice Guidance states that:

“Where a neighbourhood plan is brought forward before an up to date Local Plan is in place the qualifying body and the local planning authority should discuss and aim to agree the relationship between policies in:

- *the emerging Neighbourhood Plan*
- *the emerging Local Plan*
- *the adopted Development Plan*

with appropriate regard to national policy and advice.”

2.9 **The council encourages all neighbourhood plan groups to seek early and consistent engagement throughout the process of writing a neighbourhood plan.**

² Section 38(6) of the Planning and Compulsory Purchase Act 2004 and Section 70(2) of the Town and Country Planning Act 1990

3 The Strategic Policies

3.1 Guidance is provided at national level for identifying strategic policies both within the National Planning Policy Framework (NPPF) – paragraph 156 and the national Planning Practice Guidance (PPG) (paragraph 074 - 077 Ref ID: 41-074-20140306). The Council has used this to identify the strategic policies in the adopted development plan for North Norfolk as detailed below. It is also worth noting that the Strategic Policies of the Council are changing and in order to future proof any emerging Neighbourhood Plan should have regard to and also be in general conformity with the emerging Local Plan. Similarly Local Plans should not seek to duplicate non-strategic approaches detailed in neighbourhood plans. It is recommended that close dialogue is maintained with the Council around emerging policy areas.

3.2 Criteria 1-5, contained in the NPPF and criteria A-F contained in the national PPG have been used to identify the Strategic Policies contained in the North Norfolk Development Plan.

3.3 The NPPF, para 156 states that:

“Local planning authorities should set out the strategic priorities for the area in the Local Plan. This should include strategic policies to deliver:

- 1. the homes and jobs needed in the area;*
- 2. the provision of retail, leisure and other commercial development;*
- 3. the provision of infrastructure for transport, telecommunications, waste management, water supply, wastewater, flood risk and coastal change management, and the provision of minerals and energy (including heat);*
- 4. the provision of health, security, community and cultural infrastructure and other local facilities; and*
- 5. climate change mitigation and adaptation, conservation and enhancement of the natural and historic environment, including landscape.”*

3.4 Paragraph 184 goes on to state that ***“Neighbourhood Plans should reflect these policies...and plan positivity to support them.”***

3.5 When reaching a view on whether a policy is a strategic policy the national PPG states that the following are useful considerations:

- a. whether the policy sets out an overarching direction or objective;*
- b. whether the policy seeks to shape the broad characteristics of development; the scale at which the policy is intended to operate;*
- c. whether the policy sets a framework for decisions on how competing priorities should be balanced;*
- d. whether the policy sets a standard or other requirement that is essential to achieving the wider vision and aspirations in the Local Plan;*
- e. in the case of site allocations, whether bringing the site forward is central to achieving the vision and aspirations of the Local Plan;*
- f. whether the Local Plan identifies the policy as being strategic*

- 3.6 Where policy elements are identified as not strategic, neighbourhood plans **will be able to shape and direct sustainable development in their area as long as they do not seek to duplicate existing non-strategic process and policies at a local and national level and the approach is justified through supporting evidence.** Some policies of the Development Plan although not strategic in their entirety do contain elements that reflect and support the overarching strategic approach. In such cases neighbourhood plans could seek to add further elements of local distinctiveness, however it is recommended that options and topic areas are discussed with the Planning Policy team during policy formation and that there is adequate justification and evidence to substantiate proposed approaches
- 3.7 The Council will use the following table to assess emerging neighbourhood plans in its assessment of conformity.

List of Strategic policies

Policy In DPD		Comments	NPPF Guidance	PPG Guidance
SS1	Spatial Strategy for North Norfolk	Strategic policy	1	A,B,C,D,F
SS2	Development in the Countryside	Strategic policy	1	A,B,C,F
SS3	Housing Distribution	Strategic policy	1	A,B,C,D,F
SS4	Environment	Strategic policy	5	A, C, D,F
SS5	Economy	Strategic policy	1	A,C,D,F
SS6	Access and Infrastructure	Strategic policy	3	A, B, F
SS7-14	Town Strategies	Strategic policy	2,3,4	A,B,D,F
HO1	Dwelling Mix &Type	Part strategic Policy setting overarching objective. Policy that local community could, in part add local distinctiveness subject to appropriate evidence and general conformity to strategic elements.		A,B,D
HO2	Affordable Housing	Strategic Policy	1	A,C,D,E
HO3	Affordable Housing In the countryside	Part Strategic Policy setting overarching objective which should be met as a minimum Policy that local community could, in part add local distinctiveness subject to appropriate evidence and general conformity to strategic elements		B, D
HO4	Sites for Gypsies & Travellers	Strategic Policy	1	A,B,C

	and Travelling Showpeople			
H05	Agricultural, Forestry and other Occupational Dwellings in the Countryside	Policy that local community could add local distinctiveness subject to appropriate evidence and alignment to national policies		
H06	Removal of Agricultural, Forestry and other occupancy conditions	Policy that local community could add local distinctiveness subject to appropriate evidence and alignment to national policies.		
H07	Making the most efficient use of Land (Density)	Strategic policy	1	A,B,C
H08	House extensions and replacement dwellings in the countryside	Policy that local community could add local distinctiveness subject to appropriate evidence		
H09	Conversion and re use of rural buildings as dwellings Updated December 2012	Strategic policy		A, B, C
EN1	Norfolk Coast Area of Outstanding Natural Beauty and the Broads	Strategic policy	5	A,B,C,D
EN2	Protection and Enhancement of Landscape and Settlement Character	Strategic policy	5	A,B
EN3	Undeveloped Coast	Strategic policy		A,B,C
EN4	Design	Part strategic policy seeking to shape broad characteristics of development. Policy that local community could, in part add local distinctiveness subject to appropriate evidence and general conformity to strategic elements		B,D
EN5	Public Realm	Policy that local community could add local distinctiveness subject to appropriate evidence		
EN6	Sustainable Construction and Energy Efficiency	Policy that local community could add local distinctiveness subject to appropriate evidence and alignment to national policies ³		

³ Note: National policy allows only prescribed standards through the new technical standards applied through Building Regulation to be enacted through Local Plans and Neighbourhood Plans.

EN7	Renewable Energy	Policy that local community could add local distinctiveness subject to appropriate evidence		
EN8	Protecting and Enhancing the Historic Environment	Strategic policy	5	A,B
EN9	Biodiversity & Geology	Strategic policy	5	A
EN10	Development and Flood Risk	Strategic policy	3,5	A,C
EN11	Coastal Erosion	Strategic policy	3	C
EN12	Relocation and replacement of development affected by Coastal Erosion Risk	Strategic policy	3,5	A, B,C
EN13	Pollution and Hazard Prevention and Minimisation	Strategic policy	5	A,B,C
EC1	Farm Diversification	Policy that local community could add local distinctiveness subject to appropriate evidence		
EC2	The Re use of Buildings in the Countryside	Strategic Policy		A, B, C
EC3	Extensions to Existing Businesses in the Countryside	Policy sets in part an overarching direction. Policy that local community could in part add local distinctiveness subject to appropriate evidence	1	A,B
EC4	Redundant Defense Establishments	Policy sets in part an overarching direction. Policy that local community could in part add local distinctiveness subject to appropriate evidence & subject to adherence to strategic policies on location of sustainable development		A,B,C
EC5	Location of Retail and Commercial Leisure Development	Strategic Policy	2	A,C
EC6	Public Car Parking Provision	Strategic Policy	4	A
EC7	The Location of New Tourism Development	Strategic Policy	2	A, B
EC8	Retaining an Adequate Supply and Mix of Tourist Accommodation	Strategic Policy	2	C

EC9	Holiday and Seasonal Occupancy Conditions	Policy that local community could add local distinctiveness subject to appropriate evidence		
EC10	Static and Touring caravan and Camping Sites	Strategic Policy	2	B,D
CT1	Open Space Designations	Policy sets in part an overarching direction. Policy that local community could in part add local distinctiveness subject to appropriate evidence and general conformity with overarching policies ⁴	5	A,C
CT2	Developer Contributions	Strategic Policy	1,2,3,	A, B,D
CT3	Provision and Retention of Local Facilities and Services	Policy that local community could review adding local distinctiveness subject to appropriate evidence		
CT4	Telecommunications	Strategic Policy	3	A,C
CT5	The Transport impact of New Development	Strategic Policy	5	A,C
CT6	Parking Provision (Standards)	Policy that local community could add local distinctiveness subject to appropriate evidence		
CT7	Safeguarding Land for Sustainable Transport Uses	Policy setting overarching objective around sustainable transport links Policy that local community could in part add local distinctiveness subject to appropriate evidence and general conformity to strategic elements	3,4,5	C
Policy in Site Allocations DPD				
C01-WEY09	Site allocations	Strategic policies and allocations ⁵	1,2,3,4,5	A,B,C,& or E,F
Tattersett Business Park	Employment land at Tattersett Business Park	Strategic for the delivery of jobs and employment uses that may otherwise be difficult to accommodate elsewhere.	1	A,B,

⁴ Neighbourhood plans can seek to designate Local Green Space through an assessment in compliance with guidelines issued in national policy and guidance

⁵ Neighbourhood plans can seek to plan positively for growth and allocate additional growth subject to general conformity with the strategic policies. Particular attention should be given to the overall spatial strategy.

4 Other matters

4.1 By law Neighbourhood Plans cannot deal with minerals or waste issues.

4.2 Neighbourhood planning has its own set of Regulations which set out the legal matters relating to the neighbourhood planning process. These are:

- [The Neighbourhood Planning \(General\) Regulations 2012;](#)
- [The Neighbourhood Planning \(General\) \(Amendment\) Regulations, 2015;](#)
- [The Neighbourhood Planning \(General\) and Development Management Procedure \(Amendment\) Regulations, 2016;](#)
- [The Neighbourhood Planning Act, 2017;](#)
- [The Neighbourhood Plan \(Referendums\) Regulations, 2012;](#)
- [The Neighbourhood Planning \(Referendums\) \(Amendment\) Regulations 2013](#)
- [The Neighbourhood Planning \(Referendums\) \(Amendment\) Regulations 2014](#)
- [The Neighbourhood Plan \(Referendums\) \(Amendment\) Regulations, 2016;](#)
- [The Neighbourhood Planning \(Prescribed Dates\) Regulations, 2012.](#)

4.3 Legislation can be obtained at <http://www.legislation.gov.uk>