

Weight to be attached to Neighbourhood Plans A Briefing Note for DCC

Introduction

A valid planning application has to be determined by the Local Planning Authority (LPA). The LPA cannot refuse to consider, or delay a decision on a planning application because a community is preparing a neighbourhood plan. However, like all planning policy documents, neighbourhood plans will gather increasing weight as a material consideration, the further they get through the process towards becoming a 'Made' Plan.

This Briefing Note is intended to provide a short guide as to the weight that should be given to a Neighbourhood Plan, when considering planning applications, as the Plan moves through that process.

The Legislative Framework

National Planning Practice Guidance (NPPG) states that an 'emerging neighbourhood plan may be a material consideration'. However, it also states that in deciding how much weight should be given to an emerging Neighbourhood Plan, an LPA needs 'to consider include the stage of preparation of the plan and the extent to which there are unresolved objections to relevant policies' and 'should respect evidence of local support prior to referendum when seeking to apply weight to an emerging neighbourhood plan'.

Annex 1 of the National Planning Policy Framework (NPPF) also explains how weight may be given to policies in emerging plans. The starting point for such decisions must be the NPPF and in particular the presumption in favour of sustainable development. It is unlikely that a decision to refuse an application on the basis that it is premature would be successful at Appeal unless it is clear that the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, taking the policies in the Framework and any other material considerations into account. Such circumstances are likely, but not exclusively, to be limited to situations where both:

- a) the development proposed is so substantial, or its cumulative effect would be so significant, that to grant permission would undermine the plan-making process by predetermining decisions about the scale, location or phasing of new development that are central to an emerging Neighbourhood Plan and
- b) the emerging plan is at an advanced stage but is not yet formally part of the development plan for the area.

Refusal of planning permission on grounds of prematurity will seldom be justified before a Neighbourhood Plan has completed its public consultation

period. Where planning permission is refused on grounds of prematurity, the Council would need to indicate clearly how the grant of permission for the development concerned would prejudice the outcome of the plan-making process.(NPPG)

Before Publication

Until a Neighbourhood Plan is published for consultation it can be given no weight. So even if the relevant Neighbourhood Plan Steering Group are at a quite advanced stage in preparing the draft plan: they have had a lot of community engagement and the draft document is just waiting for the dotting of the 'i's and the crossing of the 't's it carries no weight.

Following Publication

Once a Neighbourhood Plan is published, the steering group bringing the plan forward should have evidence of public support for aspects of the plan. Some very limited weight could be given to those policies where it can be demonstrated that there is clear public support for them. Once the Plan has been checked for compliance with the NPPF and existing Development Plan Policies by Milton Keynes Council a little more weight can be given to those policies.

Paragraph 216 of the NPPF states: From the day of publication, decision-takers may also give weight to relevant policies in emerging plans according to:

- the stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);
- the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and
- the degree of consistency of the relevant policies in the emerging plan to the policies in this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).

Following Public Consultation

Comments received during the formal Public Consultation period can provide stronger evidence of public support for policies and increase the weight that can be given to them. However, even at this stage the weight that can be given to the policies is a long way short of full weight.

Following Examination

Once a Neighbourhood Plan has been through the examination process and the Examiner has concluded that the Plan is in conformity with the NPPF and

any Development Plan, the Neighbourhood Plan carries considerable weight, but not yet full weight.

Following the Referendum

Once the referendum has been held and there is clear public support for the Neighbourhood Plan, the Plan and its policies carry substantial weight, although still slightly short of full weight.

Following Adoption

Only once the Neighbourhood Plan has been 'Made' by the LPA does it carry full weight when considering planning applications.

Neighbourhood Plans versus 5 Year Housing Land Supply

Paragraph 83 of National Planning Practice Guidance on Neighbourhood Planning advises (issued 11.02.16):

"Neighbourhood plans are an important part of the plan-led system. The Government's policy intention when introducing neighbourhood planning was to provide a powerful set of tools for local people to ensure they get the right types of development for their community, while also planning positively to support strategic development needs.

Decision makers may find themselves considering applications in an area with a neighbourhood plan that has passed referendum and been "made", and thus forms part of the development plan, but where the local planning authority cannot demonstrate a five-year supply of deliverable housing sites. In such instances paragraph 49 of the Framework is clear 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." Paragraph 49 applies to policies in the statutory development plan documents which have been adopted or approved in relation to a local planning authority area. It also applies to policies in made neighbourhood plans.

Where the development plan is absent, silent or the relevant policies are out of date, paragraph 14 of the Framework states that the presumption in favour of sustainable development requires the granting of planning permission, unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole; or specific policies in the Framework indicate development should be restricted.

In this situation, when assessing the adverse impacts of the proposal against the policies in the Framework as a whole, decision makers should include within their assessment those policies in the Framework that deal with neighbourhood planning.

This includes paragraphs 183–185 of the Framework; and paragraph 198 which states that where a planning application conflicts with a neighbourhood plan that has been brought into force, planning permission should not normally be granted”.

Paragraphs 183 – 185 and 198 of the NPPF would also need to be weighed in the balance against paragraphs 14 and 49 of the NPPF.