

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

There will be occasions when an application 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 LPA cannot demonstrate a five-year supply of deliverable housing sites.

Paragraph 49 of the National Planning Policy Framework states that if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites relevant policies for the supply of housing should not be considered up-to-date, and housing applications should be considered in the context of the presumption in favour of sustainable development.

However, a Ministerial Statement published on 12th December 2016 gives greater weight to Neighbourhood Plans, in specific circumstances, even where it is in an area where the Local Planning Authority is unable to demonstrate a 5 year housing land supply.

The Statement means that, where a local authority is unable to demonstrate a 5 year housing land supply, relevant policies for the supply of housing in a 'made' neighbourhood plan (ie one that is part of the development plan), should not be deemed to be 'out-of-date' under paragraph 49 of the National Planning Policy Framework where all of the following circumstances arise at the time the decision on a planning application is made:

- 1) The 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;
- 2) the neighbourhood plan allocates sites for housing; and
- 3) the local planning authority can demonstrate a three-year supply of deliverable housing sites (Milton Keynes Council can currently demonstrate in excess of a three-year housing land supply)

The Statement is a strong indication of the importance that the government places on the role of neighbourhood plans in allocating and delivering sites for housing.

Currently, the Ministerial Statement will apply to three of the made Neighbourhood Plans in the Milton Keynes Council area (The Lakes Estate Neighbourhood Plan, the Newport Pagnell Neighbourhood Plan and the Walton Plan). A table setting out all the currently made Neighbourhood Plans in the Milton Keynes area and their compliance with the three criteria set out in the statement is appended to this briefing note.

2 February 2017