

This matter is being dealt with by
Megan Wilson

**Waterfront House, Waterfront Plaza
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Our ref: 2503213 - 10

2 August 2024

Dear Lynn Parker,

RE: 24/02108/OUT, Albrighton South – Proposed Planning Reforms

On the 30th July 2024, the Secretary of State for Housing, Communities and Local Government announced an eight week consultation on proposed reforms to the National Planning Policy Framework (NPPF) and other changes to the planning system. The NPPF consultation was accompanied by the 'Building the homes we need' Written Ministerial Statement (WMS).

This letter considers the implications and application of the consultation and the WMS on the above listed planning application, including the weight to be afforded to the consultation draft of the NPPF and the WMS.

A mandate and commitment for housing growth

Throughout the recent General Election campaign, the Labour Party have committed to the delivery of 1.5 million houses over the next Parliament and it is clear that post-election, the new Government have placed significant weight on the importance of delivering the houses needed, not just to end the chronic and worsening national housing crisis, but also to offer a significant economic boost. Indeed, in her first speech as Chancellor, Rachel Reeves clearly stated that planning reform and the delivery of housing are a priority and front and centre of the Government's plan to fix the foundations of the economy.

It is clear that the Government are committed to planning reform, and despite acknowledging that tough decisions around growth will be necessary, including 'trade-offs', changes to national policy will allow for a significant uptick in the delivery of housing and associated and supported infrastructure, with the Chancellor concluding;

"We will not succumb to a status quo which responds to the existence of trade-offs by always saying no, and relegates the national interest below other priorities.

We will make those tough decisions, to realise that mandate.

Be in no doubt – we are going to get Britain building again".

This commitment is being played out in practice, and within 26 days of forming the new Government, as stated above, consultation has commenced on a revised NPPF.

Application of the NPPF consultation and WMS

Until the revised NPPF comes into force, the previous December 2023 Framework remains national planning policy, against which the application in question will be considered.

However, noting that the NPPF is a material consideration, and the weight to be afforded to the Framework depends upon the datedness and consistency of policies contained within the adopted Development Plan, the weight to be afforded to the Framework can vary.

As is set out in case law, the consultation version of the NPPF can also be treated as a material consideration in the decision making process, however given that the consultation is ongoing and changes could be made ahead of it coming into force, the weight is a matter of planning judgement. It is however worth noting that in *Cala Homes (South) Ltd v Secretary of State for Communities and Local Government* [2011] EWHC 97 (Admin); [2011] 1 P & CR 22, in his hand down, Justice Lindblom concluded *"emerging national policy, for example in the form of a draft circular or Planning Policy Statement, can also be a material consideration (see Ex p. Kirkman)."*

The WMS that was released with the consultation is also a material consideration that outlines the direction that national planning policy is headed. This is confirmed by the Court of Appeal in *R (Cala Homes (South) Ltd) v Secretary of State for Communities and Local Government* and another [2011] EWCA Civ 639 (27 May 2011), which held that potential reforms to national policy is a material consideration and that *"[t]he weight to be given to any prospective change in planning policy will be a matter for the decision-maker's planning judgment in each particular case. In principle, the means by which it is proposed to effect a change in policy, by new legislation, by amendment under existing legislation, or by administrative action such as the publication of a new [national planning policy], goes to the weight, not the materiality, of the prospective change"*.

The below considers the key areas of proposed reform and details set out within the WMS, relevant to the subject application, and in light of the above, and noting that there is a reasonable prospect that the application will be determined around the time of a significant change in national policy, we consider it necessary that the Council has clear regard and affords the appropriate weight to the proposed provisions within the consultation draft of the NPPF and the WMS.

Consultation on Revisions to the National Planning Policy Framework

Revised Standard Method Calculation

In addition to reversing the modifications made to the current NPPF by the previous Government, which includes making the use of the standard method for determining minimum housing requirements, mandatory again, the consultation suggests a new standard method calculation.

Along with ensuring the delivery of 1.5 million new homes over the next five years, the primary objective of the new proposed standard method is to ensure that all areas contribute to meeting the nation's housing needs rather than drastically undershooting local ambition in some areas. This will result in a more balanced distribution of homes across the nation by placing homes where they are most needed and least affordable.

Aligned with the below in respect of Green Belt, and through removing some of the provisions under Paragraph 61 of the NPPF²³, only where very significant 'hard constraints' can be evidenced to the Planning Inspectorate, will a housing requirement below that generated through the standard method be considered appropriate. Given the constraints and opportunities for growth present across Shropshire, we do not consider that there is any prospect of 'hard constraints' being evidenced to justify deviation from the new method output.

Turning to the new local housing need figure derived from the proposed standard method, alongside the consultation on the reforms to the NPPF, the Government have published details of the outcome of the new calculation, and for Shropshire, we can see a very significant increase in the minimum number of houses to be planned for on an annual basis.

The revised standard method indicates a minimum, baseline requirement of some 2,059 dwellings per year for Shropshire, against the current standard method figure of 1,070 dwellings per year. This is a minimum increase in need of some 989 dwellings per year.

This represents a significant step change in need when considered against the annual delivery of housing over the preceding 3-years, which stands at just 1,455 dwellings per annum, thus demonstrating that a significant boost in housing delivery will be required.

Furthermore, the emerging Local Plan Review, proposes a minimum of just 31,300 dwellings between 2016 and 2038, which equates to an annual average of around 1,423 dwellings. Notably, this includes an uplift to account for high growth ambitions (15%) and a contribution of 1,500 dwellings to assist with the unmet needs arising from the Black Country.

If the same uplift and unmet need contribution were to be applied to the new minimum standard method calculation, the Council would be required to plan for a minimum of 53,593 dwellings over a comparative 22 year plan period, equating to 2,437 dwellings per annum, before an appropriate buffer is applied.

It should also be noted that under a proposed strengthening of the Duty to Cooperate, all authorities, including Shropshire, will be required to work harder to accommodate additional unmet need arising from neighbouring authorities, and as such, the contribution of 1,500 dwellings worth of unmet need should increase significantly, particularly given that the revised standard method, also increases minimum housing need in Wolverhampton considerably.

As such, it is clear that Shropshire are going to have to find a considerable amount of additional land to accommodate their own minimum housing needs in addition to supporting more constrained neighbouring authorities.

Whilst much of this is a matter for consideration by the Planning Policy team and the Inspectors Examining the Local Plan Review, discussed further below, if adopted the new standard method, given that the existing Shropshire Development Plan is more than 5-years old, will be utilised for the purpose of calculating housing land supply.

The Planning Statement submitted alongside the application in question, contains a chapter pertaining to housing land supply, and concludes that the Council's assessment of deliverable sites is deficient in evidence of deliverability and considers a realistic demonstrable supply. I have however set out the implications of the revised standard method figure on the Council's HLS against both the applicants justified demonstrable supply and that claimed by the Council below;

	Requirement	Plus Buffer	Deliverable Supply	Housing Land Supply
Council's Claimed Position	$2,059 * 5 = 10,295$	$10,295 + 5\% = 10,810$	8,283	3.83 years
Marrons Assessment	$2,059 * 5 = 10,295$	$10,295 + 5\% = 10,810$	5,526	2.56 years

Accordingly, immediately upon coming into force, the revised NPPF, assuming the standard method calculation remains as proposed, and up until the point where the Council have an up-to-date Local Plan, against both the Council's claimed position and the position evidence by Marrons, the Council will have a significant shortfall in the provision of deliverable housing.

Presumption in favour of sustainable development

Updates to the presumption in favour of sustainable development are being proposed, and they clarify that policies that are explicitly related to the "supply of land" trigger the tilted balance. This includes policies that set requirements, allocate land, permit windfall development. Significantly the proposed amends revise the current Frameworks provisions relating to a four-year housing land supply.

Approach to development of land within the Green Belt

According to the consultation on the NPPF24, paragraph 142, housing requirements can expressly justify exceptional circumstances for the release of Green Belt land and requires LPAs to

review and, if required, modify Green Belt boundaries where they are insufficient or unsuitable sites outside of the Green Belt to meet housing or commercial needs.

The proposed reforms further broaden the scope of development that is not considered inappropriate in the Green Belt, introducing 'Grey Belt' and eliminating the necessity for release under the Very Special Circumstances test for such land. According to Paragraph 152, development will not be deemed inappropriate in cases where LPAs cannot meet the 5YHLS, delivery falls below the 75% HDT threshold, or there is a demonstrated need for land to be released for development of local, regional, or national importance.

Significantly the consultation Framework definition (in the glossary at Annex 2) describes the Grey Belt as covering areas of Previously Developed Land (PDL) and/or land that make a "limited contribution" to the Green Belt purposes.

I refer the Council at this point to the Green Belt Assessment prepared in support of the subject application which confirms that save for harm associated with Purpose 3 of the Green Belt, where it should be acknowledged that the most sustainable locations for development will invariably be countryside adjacent to existing settlements, and as such conflict with the Green Belt purpose is inevitable, development of the subject site is not considered to give rise to significant Green Belt harm, and as such is considered to make a limited contribution to the Green Belt purposes, when considered as a whole.

Clearly therefore, given that significant increases in housing requirements across Shropshire, it is inevitable, be it following an immediate review of the Local Plan (see below), if the current Plan is capable of being found sound, which in our assessment is only through the allocation of further land, and specifically that at Albrighton South, or more imminently if the Council were required to withdraw their Local Plan from Examination or in the instance whereby the Plan was found to be unsound, the Council will be required to review their Green Belt and release land, in sustainable settlements, close to the Black Country, to meet their minimum housing requirements.

Strengthening the Duty to Cooperate and Unmet Housing Needs

Until such a time where a more permanent framework for strategic planning is put in place, the Duty to Cooperate will continue to be applied to Locals Plans progressing through the system, irrespective of the Framework against which they are being Examined.

More significantly though, the Government is proposing to amend: *"the 'maintaining effective co-operation' section of the NPPF to ensure that the right engagement is occurring on the sharing of unmet housing need and other strategic issues where plans are being progressed. This will apply to local plans, minerals, waste plans and to spatial development strategies, and would be introduced in changes to paragraphs 24-27 of the existing NPPF. This change will apply in conjunction with the Duty to Cooperate in the current plan making system."*

It is clear within the proposed changes, that additional emphasis will be placed on 'effective co-operation' which essentially will require authorities such as Shropshire to bare additional weight in regard to accommodating unmet housing needs associated with areas such as the Black Country.

Shropshire Council have correctly engaged proactively in the process previously and have sought to accommodate unmet needs arising from nearby authorities, notwithstanding that the unmet need is arguably much more significant than is being planned for. Moving forward, there will be continued and more significant unmet needs to be accommodated within the areas of Shropshire strategically located on the edge of the Black Country, which clearly Albrighton is, and as such, in line with the above, there will need to be a comprehensive review of the Green Belt boundaries in these areas, either through the Local Plan process or through development management controls.

Transitional Arrangements

As with any proposed reforms to national policy, the consultation Framework proposes some transitional arrangements. These arrangements relate only to the Local Plan process, and as such, once in force, the provisions of the NPPF24 will apply to decision taking immediately.

Shropshire Council submitted their Local Plan for Examination back in September 2021, almost 3-years ago. As such, the Plan, is being Examined under the provisions of the 2021 Framework. The transitional arrangements set out in the consultation Framework are clear in that any Plan submitted for Examination ahead of the revised Framework coming into force, will continue to be Examined under the relevant Framework at the time of submission.

However, in the case of Shropshire, because the annual housing requirement being progressed in the emerging Local Plan Review is more than 200 dpa below the new LHN, the Council will be required to commence an immediate review of their Local Plan upon adoption of the current emerging Local Plan. Any shortfall will need to be accounted for in the allocation of land, and given the considerably increase in housing requirement, upwards of an additional 2,500 dwellings worth of land, on top of that to meet the identified need for a whole plan period will be required.

I further turn to the current position with regard to the Local Plan below under the final subsection of this letter.

Building the homes we need Written Ministerial Statement

As per the Case Law set out above, the WMS issued by the Secretary of State for Housing, Communities and Local Government on 30th July is a material consideration and should be afforded weight in any decision made by the Council with regard to the subject application, irrespective of the status of the associated planning reforms.

The areas of proposed reform listed above, are all covered within the WMS under the below listed sections;

- Restoring and raising housing targets;
- Building in the right places;
- Moving to strategic planning; and
- Supporting local planning

The WMS confirms a revised standard method calculations that generates a national minimum requirement of over 370,000, rising from the current calculation that generates just a 300,000 dwelling per annum minimum housing need.

The instruction for authorities to undertake a Green Belt Review where required to meet housing needs is further detailed, along with the formal introduction of the 'Grey Belt', which is defined within the WMS as "land on the edge of existing settlements or roads, and with little aesthetic or environmental value".

Irrespective of Plan making progress, in instances where Council's cannot demonstrate a sufficient supply of deliverable homes or are failing the HDT, unallocated land within the 'Grey Belt' will not be required to meet the Very Special Circumstances test.

Refining pragmatism in Local Plan Examinations

Following the release of the WMS and consultation on planning reforms, Housing Minister Matthew Pennycook have written to The Planning Inspectorate with regard to the approach to be taken to ongoing and future Local Plan Examinations.

In his letter dated 30th July, the Housing Minister, outlined concerns relating to the increase in duration of Local Plan Examinations and the mandate from the previous Government, that Inspectors should examine Plans 'pragmatically' and allow for significant deficiencies in submitted Plans to be worked on during the Examination process.

The letter confirms that the immediate approach to be taken will require Inspectors to engage such 'pragmatism' where Plans are genuinely only capable of being found sound and that such pragmatism should not be used to address fundamental issues with the submitted Local Plan. Any such issues that would require an Examination to be paused for more than six-months, should indicate that a Plan is not capable of being found sound.

In an immediate response to this letter, Paul Morrison, Chief Executive of The Planning Inspectorate wrote back to the Housing Minister on the 1st August and confirmed that the previously mandated approach has invariably resulted in elongated Examinations and has contributed to delays in the Plan making process.

The letter confirms that The Planning Inspectorate embrace the new approach to Local Plan Examinations but warn that there will be an inevitable increase in the number of Local Plan being withdrawn and/or being found unsound.

The Shropshire Local Plan Review, having been submitted almost 3-years ago, is one of the longest live Examinations in the country and has been subject to numerous delays and considerable concerns have been raised throughout the process by the Inspectors. As such, it is a perfect example of what the new Government are seeking to put an immediate stop to.

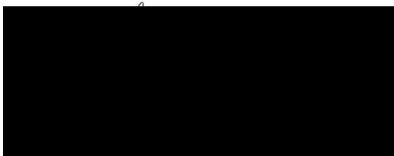
The content of the exchange between the Housing Minister and The Planning Inspectorate's Chief Executive is particularly relevant to Shropshire, especially given the time and financial commitment to date, to get the emerging Local Plan Review as far as it has. Naturally therefore it follows that the Council will want to ensure that no stone is left unturned, including potentially looking again at omission sites such as Albrighton South, when it comes to achieving a sound Local Plan, especially given the implications of not adopting the emerging Local Plan, including a very rapid and significant increase in housing requirement across the authority.

Boningale Homes continue to offer their support to a plan-led process in Shropshire and are committed to assisting the Council in achieving a sound Local Plan. As is detailed within the submitted Planning Statement, given the Council's assessment of the development potential of the land at Albrighton South (as confirmed by reference to future safeguarding of the site), we continue to support the prospect of the site being allocated for development in line with the proposed application notwithstanding the position that Very Special Circumstances for release from the Green Belt, outside of allocation, have been robustly demonstrated.

Clearly, we are in a transitional planning era, with widespread changes in approach, policy and legislation forthcoming. The Council, when considering the application before them are therefore asked to have due regard to the direction of national policy and guidance, including significantly higher levels of housing need in Shropshire and appropriate Green Belt release in sustainable locations.

I therefore once again invite the Council to grant planning permission without delay.

Yours faithfully



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