

LOCAL DEVELOPMENT FRAMEWORK COMMITTEE

15 AUGUST 2011

Present :- Councillor Colin Sykes (Chairman)
Councillors Elizabeth Blundell, Mark Cory,
Beverly Davies, Andrew Ellis, Martin Goss,
John Jowers, Kim Naish and Henry Spyvee

Also in Attendance :- Councillor Nick Barlow
Councillor Nigel Chapman
Councillor Peter Chillingworth
Councillor Sonia Lewis

8. Minutes

The minutes of the meetings held on 18 May 2011 and 13 June 2011 were confirmed as a correct record.

Councillor Henry Spyvee (in respect of a close family relative's residence in Hertfordshire) declared a personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3)

Councillor Colin Sykes (in respect of his membership of Stanway Parish Council) declared a personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3)

Councillor Kim Naish (in respect of his membership of The Angling Trust and exclusive membership of The Angling Trust Eastern Region Freshwater Forum) declared a personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3)

9. Draft National Planning Policy Framework - consultation

The Head of Strategic Policy and Regeneration submitted a report on a consultation document from the Department for Communities and Local Government (DCLG) on the draft National Planning Policy Framework (NPPF). The report provided a summary of each themed section of the NPPF and where possible an indication of the impact of any proposed new requirements, together with the key changes. The response to the consultation was delegated to the Portfolio Holder for Commerce and Sustainability and the Committee was invited to provide comments for the Portfolio Holder to consider including in his response.

Karen Syrett, Spatial Policy Manager, attended to assist the Committee in its deliberations. In her presentation to the Committee she referred to the indication in the document that the 20% uplift would apply to the five year target rather than the 15 year target. She pointed out that as the housing targets were a rolling programme, ultimately

the fifteen year target would become the five year target and subject to the 20% uplift.

Richard Beachamp, representing the Campaign for the Protection of Rural Essex, addressed the Committee pursuant to the provisions of Meetings General Procedure Rule 5(3). He sought clarification on how the NPPF would work and on whether it would have an impact on which sites were vulnerable to development. He asked that consideration be given to past and continuing risks. He was concerned for the future adding that there was already a presumption in favour of development.

Pete Hewitt, Myland Community Council, addressed the Committee pursuant to the provisions of Meetings General Procedure Rule 5(3). Myland Community Council urged this council to express its profound concerns that the proposed NPPF contradicted the ethos of localism. The community council valued localism and the town, and considered it vital that the presumption should be to protect natural and historic environments rather than the reverse. He suggested that the Borough Council respond that it was unable to identify 20% uplift. He wanted there to be no dilution to the protection of historic places and green open spaces, and that only sustainable developments that did not compromise the environment would be permitted. The community council believed the NPPF was contrary to the DEFRA white paper and other associated reports and the presumption in favour of development would be a barrier to the town's vision.

The Chairman read out comments from Councillor Ray Gamble, Chairman of the Planning Committee, who was unable to attend this meeting. Councillor Gamble referred to the strict policies which protected the countryside and he was of the view that any relaxation of those policies could put the protected areas at risk, notably in rural areas. Bearing in mind the need for social housing and developers' demand for building land, he believed that the current Local Development Framework (LDF) had managed land for building very well without allowing development to run rampant.

Members of the Committee made comments, set out below, within the themes as set out in the NPPF document.

Delivering Sustainable Development

- the principal concern was in respect to the 20% uplift in numbers of dwellings to be provided and where the dwellings would be located,
- the ethos of the NPPF had a strong presumption in favour of sustainable development which went too far,
- that development would win unless there were reasons for it not to do so,
- a clear definition of sustainable development was required to ensure it was not being watered down,
- development providing houses, jobs and infrastructure would be in the places where they should be if the development was led by a Plan, otherwise the reverse would be the case,
- there was concern that determination of the number of new dwellings the authority builds had effectively been taken away from the council,
- there was an inherent contradiction that localism meant local determination of applications, and yet the NPPF did the reverse; localism appeared not to have

- been taken into account,
- in reducing the size of the documents much of what had provided guidelines had been lost,
- there was a request for some clarification on how the NPPF particularly affected Colchester alongside the belief that planning should be plan led and Colchester had a plan which sat comfortably with the NPPF.

In response the Spatial Policy Manager referred to the definition of sustainable development in the Ministerial Forward as being “about change for the better, and not only in our built environment”.

Plan Making

- the current LDF had the advantage that any of its component documents could be updated when required without having to update the entire plan. This flexibility would be lost if there was a reversion to the single local plan document, which the NPPF appeared to be. It would be difficult to change and would constitute a poorer system.
- it was considered that Supplementary Planning Documents were helpful rather than a hindrance. It was noted that the NPPF prevented their use if they resulted in an additional financial burden.
- there were concerns in regard to the consultation document having no detailed information about the Certificate of Conformity.
- furthermore, in view of the lack of information on the Certificate of Conformity there were additional concerns about how the three main LDF documents, the Core Strategy, the Site Allocations Document and the Development Policies, would fit into the NPPF in the way they were currently written. The proposals were silent on this matter and the concern was that there would be a period of time when the council would be without a Certificate of Conformity and these three documents would not be recognised, thus leaving the way open to uncontrolled development. A moratorium was suggested.
- Colchester has an LDF plan in place to ensure that development goes where Colchester wants it to go.
- a comment should be made about the statement that brownfield sites were greenfield sites.
- there was agreement about the need to work collaboratively, but there was a concern that Colchester may find it was delivering development that neighbouring authorities ought to be delivering but were not.
- Colchester had adopted the regime of not duplicating national planning policies with its own policies on those matters. However Appendix 1 listed policy documents which would be cancelled by the NPPF, and as the authority was relying on those documents it may result in Colchester struggling to conform. The question was asked: would it be necessary for the authority to put back all these policies?
- there were concerns that in the absence of a local plan, planning applications would be determined in accordance with the NPPF which was to presume in favour of development and the consequence of that would be pressure for more development. The need for more homes was evidenced by the number of people on the waiting list.

- it was important to identify land which it was genuinely important to protect from development and that would be difficult because of the competing issues.
- the draft NPPF states that local plans should be aspirational and that local authorities were required to set out strategic policies and plan positively.
- there was a concern about the plan being required to be justified and that consultees may consider there was an alternative, and more appropriate, strategy.

The Spatial Policy Manager confirmed that prior to the LDF, the former local plan was one document which took a considerable length of time to prepare and had the disadvantage of the inability to change it in response to changing circumstances. Reviewing the Core Strategy took less time than reviewing a whole plan. She referred to the need to identify policy gaps arising as a result of having not duplicating national policy documents under the LDF. There were no gaps when the Regional Spatial Strategy was to be revoked. Key principles were embedded in the LDF. Some consideration will need to be given to the housing trajectory with respect to the proposed 20% uplift and whether that would necessitate bringing sites forward. She confirmed that more was awaited in regard to neighbourhood planning details; it was intended that they be used by communities for any planned growth or to plan for additional growth above existing targets.

In respect of the test of soundness needing to be justified under the LDF regime, a number of alternatives and options were put forward to the planning inspector with an indication of the preferred options and he determined the outcome. The Spatial Policy Manager did not believe that the council should be concerned about justifying the test of soundness. She also confirmed that funds from the Community Infrastructure Levy would be ring fenced for the community but revised regulations were awaited.

There was a discussion regarding the financial reward to local councils from allowing development and whether it should go to the community affected by the development or be shared out with other communities which did not have the land available for development but where there could be an impact on their amenity; a form of proportionality was suggested. There was a view that communities should themselves be able to decide whether or not they wanted development and to receive the financial benefit. Some members considered it morally wrong if a minority could obtain a financial gain for their community when the majority of the community may not have wanted the development. That some of the financial reward went to balances was not supported.

Development Management

- Pre application engagement and the submission of supporting information for planning applications being proportionate was supported, but there was no support for the imposition of conditions or planning obligations to allow otherwise unacceptable development to go ahead.

Business and Economic Development

- Members noted that the need to ensure the viability of town centres was made very clear in the document. Employment now appeared to include many things,

perhaps even retail 'having regard to market signals', and that planning policy should avoid the long term protection of employment land or floor space and applications for alternative uses of designated land or buildings should be treated on its merits. The question was asked whether clarity should be sought on what constituted employment.

- the document made it clear that if a change in the use of a building was necessary it was only permissible where the authority had identified an alternative use. In the past the authority had been able to use employment land for residential where there was a low take up of employment land but had been required to identify what additional obligations were required. This statement was a signal to authorities to be flexible and appeared to confer some freedom whereas in the past there was a hierarchy.

Transport

- the comment was made that traffic in Colchester was at a gridlock at the moment.
- it was considered that the transport section was an area which had been slimmed down too much and if the authority was not going to be able to use transport as a reason to oppose development it would worsen the situation.
- if the authority was going to have to work with other authorities, there was the risk that other authorities might decide not to make representations and Colchester's Planning Committee could not refuse an application on highways grounds if the Highway Authority had not responded. The onus would be on colleagues in other authorities.
- there was a concern regarding the removal of national parking standards but it was explained that this authority was in a better position than other authorities because it had adopted Essex County Council parking standards.
- the document referred to allowing traffic movements where sustainable, but it was hoped that this authority could oppose something that it believed to be dangerous.

Communications Infrastructure

The Committee made no comments on this section.

Minerals

As this was a county council function the Committee made no comments on this section.

Housing

- it appeared that authorities would have to provide 120% of development with no opportunity to refuse. The question of how it could be opposed on appeal was asked.
- this was a green light for greenfield development; if all the brownfield land was used there would only be greenfield land left. It was not considered that the use of greenfield land only was the right way to proceed. It was hoped that brownfield land would be prioritised in preference to greenfield land.
- Colchester would need to do a strategic housing market assessment and a

- strategic land availability assessment (brownfield land) to ensure the information was up to date. The authority must be able to demonstrate the need for housing.
- the comment was made that the authority had provided up to 95% of housing on brownfield land, but this could not continue because there was a finite supply of brownfield land. The authority made allowance for brownfield land being more expensive to develop. Colchester had delivered 120% on brownfield land already and was very good at utilising brownfield land, having put 8,200 houses in the centre of Colchester with only 16 objections.
 - there was a risk that land which was easiest to develop, that is greenfield land, would be used first, but Colchester did not use greenfield land unless it was absolutely necessary.
 - reference was made to windfall sites which had not previously been taken into account in terms of numbers of houses built. It was explained that windfall sites had been excluded in housing availability assessments unless there was some justification based on past trends. The authority had not been compelled to do that because there was a good supply. They were delivered at 100% per year so that figure had been removed and were able to demonstrate housing supply.
 - there was a concern regarding whether village envelopes would be retained.
 - reference was made to affordable housing in rural areas. There were two issues to consider; one was to allow residential development within a village envelope. The other was to change the village envelope, which required a local need assessment. Exception sites were purely for affordable housing. This was an issue about encouraging villages to accept market housing so they could get affordable housing but this was not popular in village plans. There was some support for the status quo in regard to rural exception sites, because the provision of affordable housing was not dependent upon the provision of market housing.
 - a survey of the availability of sites in villages which could accommodate ten houses had identified nearly 900 potential sites. There was some development which was constrained if people wanted their children to live in the village. The housing has to be social housing but it could be affordable housing. The debate is whether this was a NIMBYs charter.

The Spatial Policy Manager confirmed that village envelopes was one of the items not covered in this report by looking at PPS7 and the general presumption against development in the countryside. Much detail was missing in respect of the continued protection of the open countryside for the benefit of all and the control to discourage the use of greenfield land for new building development in the open countryside away from settlements.

Design

The Committee made no comments on this section.

Sustainable Communities

- if designated open space could be protected it could be designated local green space. It appeared that protection had been watered down. The council was seeking suggestions for designated local green space.

Green Belt

The Planning Policy Manager confirmed that green belt was set out in planning legislation and was only applicable to metropolitan boroughs. The Committee made no comments on this section.

Climate change, flooding and coastal change

- the document referred to flooding but there was no mention of drought which was a concern, particularly in respect of the supply of water for new developments and whether it could be sustained.

The Spatial Policy Manager explained that there had been a vulnerability classification and flood zones, but they appeared to have been omitted. They could be picked up in a local policy document or national guidance but the point should be made.

Natural Environment

- it appeared that the presumption in favour of development would override everything else. Reference was made to the use of the terms of sustainable development and sustainable economy. However, growth did not necessarily support the protection of the natural environment; the environment could be the loser.
- there was no indication that ecological impacts should be taken into account.

The Spatial Policy Manager was of the opinion that there was a need to clarify the general presumption to protect countryside.

Historic Environment

The Committee made no comments on this section.

General Comments

In response to a query regarding when it would become necessary to take the NPPF into account in the determination of applications, the Spatial Policy Manager stated that the planning inspector had produced a guidance note which explained that the draft Framework was a material consideration in decision making but weight was a matter for the decision taker.

RESOLVED that the report be noted and the Committee's comments be submitted to the Portfolio Holder for Commerce and Sustainability for consideration for inclusion into the Council's response to the consultation document.

10. Local Planning Regulations - consultation

The Head of Strategic Policy and Regeneration submitted a report on a consultation document from the Department for Communities and Local Government on a revised

set of regulations on the preparation of local plans. The revised set of regulations were intended to replace the Town and Country Planning (Local Development)(England) Regulations 2004, as amended, in response to reforms set out in the Localism Bill. The consultation draft also consolidated changes made to the 2004 Regulations into a single document. The response to the consultation was delegated to the Portfolio Holder for Commerce and Sustainability and the Committee was invited to provide comments for the Portfolio Holder to consider including in his response. The report set out the main issues covered by the 2004 Regulations and summarised the proposed changes to the regulations. The report also explained the revised processes applicable to the adoption or deletion of a plan, and the maintenance and publication of the local development scheme.

Karen Syrett, Spatial Policy Manager, attended to assist the Committee in its deliberations. The introduction of the Localism Bill was to cut red tape. New local plans would incorporate a duty to co-operate and would set out the public bodies with whom local authorities were required to co-operate. The list of general and specific consultees had not been revised. There were 60 or 70 on the two lists and 29 telecommunications companies; she invited the Committee to comment. The inspector's report could now only make recommendations; there was no requirement for the authority to agree to the suggested changes, it could either accept the suggested modifications or develop a new plan.

The Local Development Scheme and the Annual Monitoring Report would both remain but would no longer be submitted to the Secretary of State. Further information was to be published when it became available. There was no requirement for a sustainability appraisal.

The Spatial Policy Manager put forward her initial thoughts:- there was more emphasis on publishing documents to local people; local authorities would have more freedom on how to consult; and the consultation list should be determined by local councils.

Members of the Committee were of the opinion that the changes proposed in the Localism Bill and the issue of whether the revised regulations effectively consolidated the 2004 regulations with the revisions in 2008 and 2009, were particularly difficult for most members to comment upon. However, they made the following comments:- the list of bodies which were to be consulted should include neighbouring local authorities; the document did not provide a definition of a neighbourhood; there was a preference for all areas to be parished; and English Heritage was specifically mentioned but the Society for the Preservation of Historic Buildings was not; and the Committee also wanted it recorded that this local authority would prefer a suite of documents rather than a single document, adding that this local authority well understood the roles of the different documents.

In response to a query the Spatial Policy Manager confirmed that utility providers were included within the category of general consultation bodies. A member referred to this list as the duty to co-operate list which was not the same as the duty to consult list. The bodies listed were required to co-operate.

RESOLVED that the report be noted and the Committee's comments be submitted to

the Portfolio Holder for Commerce and Sustainability for consideration of inclusion into the Council's response to the consultation document.

11. Affordable Housing Supplementary Planning Document

The Committee considered a report by the Head of Strategic Policy and Regeneration on the adoption of the Affordable Housing Supplementary Planning Document (SPD) which would add clarity to the Core Strategy Policy H4. The SPD was being updated because the current SPD lacked detail on viability, peppercotting and exceptions, and it related back to the now superseded 2004 Local Plan. It was important to update the SPD to include these matters and because the emerging national policy in the form of the draft National Planning Policy Framework continued to require local authorities to set policies to meet affordable housing needs.

Karen Syrett, Spatial Policy Manager, attended to assist the Committee in its deliberations. She commented that the document did not sit easily with the amount of contributions on low threshold sites. She referred to the issue regarding SPDs and when they were necessary, that is to help bring forward sustainable development at a sustainable rate.

Andrew Crayston, Fenn Wright, addressed the Committee pursuant to the provisions of Meetings General Procedure Rule 5(3). They were concerned regarding the timing, calculation and additional charges imposed on developments within the fragile economy. He was pleased to see that financial contributions were being shelved for the time being and that charges would still come on stream in due course at lower levels. He asked that developers be given good notice of when it would happen. He wanted to make their comments to the consultation on the Community Infrastructure Levy (CIL). The subject of contributions for relevant infrastructure was sound and positive. He referred to the draft charging schedule, and the charge on a single plot together with any Unilateral Undertaking and Section 106 Agreement. There was no detail when it would be implemented and the developer had no right of appeal. He was concerned at the loss of value on any open spaces used and he questioned the viability of any brownfield scheme. He was concerned at only one month consultation in August and would like to ask whether these details could be worked on at a workshop session or the developers' forum meeting.

In response to a question by a member of the Committee regarding how the council could improve their consultation, Mr Crayston responded, that it was a very complicated situation. They wanted a workable situation. He did not think they were given enough in terms of the proposal. He would want a brain storming session so all can add their thoughts together.

The Spatial Policy Manager responded that the timescale for the CIL was set out in the Local Development Scheme. The consultation period was six weeks. This was the preliminary draft and any responses would be used to develop a revised draft which would go out for consultation again and if any further amendments were needed it would go out for a third consultation. She was willing to set something up with

consultants but was concerned that some people may not feel able to express their views in such a session.

In respect of the Affordable Housing SPD, the Chairman advised the Committee that it was not the first time this document had been considered. If it was adopted at this meeting, it would come back to the Committee when the charging structure was ready for agreement.

RESOLVED that the Affordable Housing Supplementary Planning Document be approved and adopted.