

The South Worcestershire Councils Response to the Planning Inspectorate's Letter dated 20th December 2023: Recent changes in national planning policy.

1. Introduction

- 1.1. The National Planning Policy Framework (NPPF) was first published on 27 March 2012 and updated on 24 July 2018, 19 February 2019, 20 July 2021, 5 September 2023 and 19 December 2023. The National Planning Policy Framework (the Framework) was revised by the previous Government in response to the 'Levelling-up and Regeneration Bill: reforms to national planning policy consultation' on 19 December 2023 and set out the government's planning policies for England and how these are expected to be applied.
- 1.2. On 19 December 2023 the previous Secretary of State for Levelling Up, Housing and Communities and Minister for Intergovernmental Relations also made a written statement 'The Next Stage in Our Long Term Plan for Housing Update'.
- 1.3. The former Government also published a revised Planning Policy for Traveller Sites; Planning Practice Guidance in respect of the Green Belt; and the Housing Delivery Test: 2022 measurement. In addition, on 13 December 2023, Baroness Penn, the then Parliamentary Under Secretary of State for Levelling Up, Housing and Communities issued a statement 'Planning - Local Energy Efficiency Standards Update'.
- 1.4. The South Worcestershire Councils (Worcester City Council, Wychavon District Council, and Malvern Hills District Council) submitted the South Worcestershire Development Plan Review for examination by the Planning Inspectorate on the 27 September 2023. This note is the South Worcestershire Councils (SWCs) consideration of the implications these published documents have for the submitted South Worcestershire Development Plan Review (SWDPR) and the Planning Inspectorate's examination of it, in response to the Inspector's letter dated 20 December 2023.

2. Updates to the National Planning Policy Framework (December 2023)

- 2.1. Paragraph 230 of the National Planning Policy Framework (published on 19 December 2023) states that:

'The policies in this Framework (published on 19 December 2023) will apply for the purpose of examining plans, where those plans reach regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations 2012 (presubmission) stage after 19 March 2024. Plans that reach pre-submission consultation on or before this date will be examined under the relevant previous version of the Framework in accordance with the above arrangements.'

- 2.2. The South Worcestershire Development Plan Review (SWDPR) reached Regulation 19 stage in November 2022 and was submitted to the Planning Inspectorate for examination on the 27 September 2023. This is prior to the 19 March 2024 and therefore, the SWDPR will be considered for examination under the relevant previous version of the Framework dated September 2023 and the transitional arrangements set out in Annex 1.
3. Revised Planning Policy for Traveller Sites, Planning Practice Guidance in respect of the Green Belt and the Housing Delivery Test: 2022 measurement.

Planning Practice Guidance in respect of the Green Belt:

- 3.1. The National Planning Policy Framework sets out the policy on proposals affecting the Green Belt. Where previously developed land is located within the Green Belt, the National Planning Policy Framework sets out the circumstances in which development may not be inappropriate. This includes limited infilling or the partial or complete redevelopment of previously developed land, subject to conditions relating to the potential impact of development on the openness of the Green Belt.
- 3.2. Whilst there are no changes to the guidance that governs what can and cannot be built on the Green Belt, the Green Belt PPG was updated to clarify in guidance where brownfield development in the Green Belt can occur, provided the openness of Green Belt is not harmed and the proposals do not conflict with the purposes of including land within it. This includes the re-use of buildings provided that the buildings are of permanent and substantial construction.

The SWCs do not consider that the changes to the Green Belt PPG would affect the soundness or legality of the proposed SWDPR as submitted. Whilst the SWCs are proposing changes to the Green Belt boundaries, the SWCs consider that these have been evidenced and meet the exceptional circumstances threshold.

Revised Planning Policy for Traveller Sites:

- 3.3. Following the Court of Appeal judgement (Oct 2022) in *Smith v Secretary of State for Levelling Up, Housing and Communities & Anor* [2022] EWCA Civ 1391, the government has also published revised guidance on planning for traveller sites, which reverts to defining travellers as those of travelling background including those who have temporarily or permanently given up travelling on grounds only of their own or their

family's or dependants' educational or health needs or old age. Previously, since 2015, the definition excluded those who had permanently given up travelling for these reasons.

- 3.4. Policy SWDPR 20 sets out the needs for the period 2019 to 2023 and the longer term needs for 2024-2041. It is acknowledged that the figures in the tables to the policy will need to change as a result of the updated definition for travellers as set out in the updated PPTS dated 19 December 2023.

The Housing Delivery Test: 2022 measurement

- 3.5. The Housing Delivery Test 2022 measurement is an annual measurement of housing delivery in the area of relevant plan-making authorities over 2019-20, 2020-21, 2021-22.
- 3.6. The new 2023 Framework reiterates that the standard method of calculating local housing need is only advisory. It provides clarity on what may constitute exceptional circumstances for using an alternative method to assess housing need. It recognises that there may be situations where: significant uplifts in residential densities would be inappropriate as they would be wholly out of character with the existing area; and/or applying the standard method would force an LPA to build on the Green Belt.
- 3.7. After evaluating alternatives, the SWCs consider the standard method to be the most appropriate method of calculating local housing need, as no exceptional circumstances exist which would constitute the use of an alternative method to assessing housing need.
- 3.8. The Inspectors should note that the Councils are in the process of considering the recent changes to the Framework and that these changes will be filtered into the 2023/24 5YHLS Report. The Standard Method figure will be calculated annually, and this will be the local housing need against which the 5YHLS will be assessed, until the adoption of the SWDPR. The 5YHLS will also not include a buffer, as per the 2023 version of the NPPF and PPG, alongside this, due to the stage that the SWDPR is at, we will continue to assess planning applications against a 4YHLS. On adoption of the SWDPR, the housing requirement will reflect the Standard Method calculated for the Regulation 19 Version and Submission Version of the Local Plan. The housing trajectory of the SWDPR, alongside the 2023/24 5YHLS and a Housing Topic Paper Update will be sent to the Inspectors in October to provide the most up to date versions of these documents.

4. Written Ministerial Statements

- 4.1. Since submission of the SWDPR, a number of Written Ministerial Statements (WMS) have been published. The Inspectors' have asked the SWCs to consider the WMS and the potential impacts on the proposed policies.
- 4.2. Written Ministerial Statements can be material considerations in the determination of planning applications and affect the preparation of local plans.
- 4.3. The first Written Ministerial Statement specifically highlighted by the Inspectors in their letter was titled 'The Next Stage in Our Long Term Plan for Housing Update' and published on the 19 December 2023.
- 4.4. The second Written Ministerial Statement was made on the 13 December 2023, titled 'Planning - Local Energy Efficiency Standards Update'.
- 4.5. To be sound, local plans must be consistent with national policy – enabling the delivery of sustainable development in accordance with the policies in the National Planning Policy Framework and other statements of national planning policy, including Written Ministerial Statements.
- 4.6. The SWCs do not consider that the Written Ministerial Statement titled 'The Next Stage in Our Long Term Plan for Housing Update' would have any implications for the policies contained in the SWDPR as it applies to the December 2023 version of the NPPF and not the September 2023 version under which the SWDPR will be examined.
- 4.7. The Written Ministerial Statement titled 'Planning - Local Energy Efficiency Standards Update' is likely to have implications on some of the policies contained within the South Worcestershire Development Plan Review. This Written Ministerial Statement supersedes the section of the 25 March 2015 WMS entitled 'Housing standards: streamlining the system', sub-paragraph 'Plan making' in respect of energy efficiency requirements and standards only, which was made in relation to Deregulation Act 2015 (which amended the Planning and Energy Act 2008).
- 4.8. The policies most likely to be affected by this Written Ministerial Statement are: Policy SWDPR01 Climate Change Mitigation and Adaptation, Policy SWDPR05 Design and Sustainable Construction, Policy SWDPR33 Renewable and Low Carbon Energy, Policy SWDPR51 Worcestershire Parkway, Policy SWDPR52 Throckmorton New Settlement, Policy SWDPR53 Rushwick Expanded Settlement, and SWDPR54 Mitton.
- 4.9. The WMS is a material consideration in the examination of the Local Plan and does allow some flexibility for the formulation and adoption of policies where these have been well-reasoned and robustly costed. However, it does seek to limit how policy is drafted when it goes beyond national standards. Work is being undertaken by the

South Worcestershire Councils to establish the extent to which WMS may affect the plan and to ensure that the policy approach within the SWDPR would be considered sound and legally compliant at examination.

4.10. The SWCs are working on a Topic Paper for the policies affected by the WMS which will set out any modifications which may be required for these. This will be sent to the Inspectors alongside and as part of the Schedule of Proposed Modifications.

4.11. The SWCs acknowledge that these statements and any others that may be published between now and the start of examination hearings, and/ or published between the close of the examination hearings and receipt of the Inspectors report or interim findings, may result in the need for plan modifications to ensure the Plan is sound.