

The Revised National Planning Policy Framework and compliance of Swindon Borough Development Plan Documents

Planning Committee

13th November 2018

Author:	Head of Planning, Regulatory Services and Heritage
Wards:	All
Locality Affected:	All
Parishes Affected:	All

1. Purpose and Reasons

- 1.1 The purpose of this report is to advise the Planning Committee of the Revised National Planning Policy Framework (rNPPF) and the extent to which the Swindon Borough Local Plan 2026 and associated Development Plan Documents comply with it.
- 1.2 The proposals support the Stronger Together outcomes of “a more focused, relevant and effective organisation” and “all resources, both in the organisation and in our communities, working together to meet shared challenges.”

2. Recommendations

The Committee is recommended to:

- 2.1 Note the provisions of the Revised National Planning Policy Framework, and
- 2.2 Endorse the assessment of compliance of the Swindon Borough Local Plan 2026 and associated Development Plan Documents as set out in this Report and its accompanying Appendices.
- 2.3 Delegate authority to Head of Planning, Regulatory Services and Heritage to undertake necessary factual updates to the Affordable Housing Position Statement 2016 to reflect current standards, guidance and legislation and publish on the Council’s website.

3. Detail

- 3.1 On 24th July 2018, the Government published the Revised National Planning Policy Framework with the aim of ‘planning for the right homes built in the right places of the right quality at the same time as protecting our environment’.
- 3.2 The Revised NPPF is available online at:

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<https://www.gov.uk/government/collections/revised-national-planning-policy-framework>

- 3.3 The Government also updated the online Planning Practice Guidance (PPG) on September 13th September 2018 to reflect the changes in the rNPPF. The PPG is available online at:

<https://www.gov.uk/government/collections/planning-practice-guidance>

- 3.4 The Swindon Borough Local Plan 2026 was examined in 2014, and one of the key tests of soundness is compliance with the NPPF. The Inspector concluded that with some modifications the Plan could be made sound. The recommended modifications were made and the Plan was adopted in March 2015.
- 3.5 Paragraph 2 of the rNPPF confirms that planning law requires that applications for planning permission must be determined in accord with the development plan, unless material considerations indicate otherwise. The rNPPF is a material consideration in planning decisions.
- 3.6 Paragraph 212 states that the policies in the rNPPF should be taken into account in dealing with planning applications from the day of its publication. Development Plans may also need to be revised to reflect policy changes which the rNPPF has made. However, existing Local Plan policies should not be considered out-of-date simply because they were adopted or made prior to the publication of the rNPPF. Due weight should be given to them, according to the degree of consistency with the rNPPF, (the closer the policies in the plan to the policies in the Framework, the greater the weight may be given).
- 3.7 Many of the revisions to the rNPPF concern Plan making. These will be addressed through the on-going Local Plan Review, and as such is not the subject of this Report.
- 3.8 The rNPPF largely repeats the previous NPPF with some streamlining and re-ordering. In this respect, the majority of the adopted Local Plan policies are considered to be fully consistent with the rNPPF. The key changes as they affect decision making are described below.

The Presumption in Favour of Sustainable Development

- 3.9 The rNPPF outlines what is meant by the Presumption at paragraph 11. It has been refined, in part to take account of various legal cases that have been heard since the publication of the original NPPF.
- 3.10 Paragraph 11, states that for decision taking, where there are no relevant development plan policies or where *the policies most important for determining*

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the application are out of date, permission should be granted unless the site is protected from development or where the adverse impacts would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.

- 3.11 By way of footnote to paragraph 11, the rNPPF explains that this presumption now includes, for housing schemes, situations where there is no 5 year supply, or where the Housing Delivery Test (HDT) has not been met. The Housing Delivery Test is introduced at paragraph 75.

The test will measure the number of homes created against local housing need over a three-year period.

- 3.12 Annex 1 of the rNPPF confirms that the HDT will apply from the day following publication of the first HDT results in November 2018. The determination of whether delivery of housing was substantially below the requirement is based on the following measures:

3.12.1 November 2018 - indicate that delivery was below 25% of housing required over the previous three years;

3.12.2 November 2019 - indicate that delivery was below 45% of housing required over the previous three years;

3.12.3 November 2020 - and in subsequent years indicate that delivery was below 75% of housing required over the previous three years.'

- 3.13 Also, In the interests of maintaining delivery, where housing completions (?) falls below 95% over a previous 3 year period, the Local Planning Authority will be required to prepare an action plan to rectify this.

- 3.14 The approach advocated in the 2016 written ministerial statement on Neighbourhood Development Plans (NDPs) is enshrined in the revised rNPPF. The Framework states that in situations where housing proposals conflict with a Neighbourhood Plan, then this would result in adverse impacts that are not capable of outweighing the benefits, IF ALL the following 4 criteria are met:

3.14.1 The Neighbourhood Plan became part of the development plan two years or less before the date on which the decision is made;

3.14.2 The Neighbourhood Plan contains policies and allocations to meet its identified housing requirement;

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3.14.3 The local planning authority has at least a three year supply of deliverable housing sites (against its five year housing supply requirement, including the appropriate buffer as set out in paragraph 73); and

3.14.4 The local planning authority's housing delivery was at least 45% of that required over the previous three years.

Other Measures in support of housing supply

3.15 Revisions to the NPPF reflect the Government's housing market reform programme, as set out in the Housing White Paper. The most significant include:

3.15.1 LPA's will need to identify land to accommodate at least 10% of their housing need on sites smaller than 1 hectare and decision making should give 'great weight' to windfall housing sites within existing settlements (Para. 68)

3.15.2 'Entry-level exception sites' for first time buyers/renters should be supported. These should be sites which are not already allocated for housing, adjacent to existing settlements and proportionate in size to them. (Para. 71)

Affordable Housing

3.16 The definition of affordable housing has been revised and confirms that 'social rent' and 'affordable rent' products now fall within the scope of what is referred to as 'affordable housing for rent'. The rNPPF now also refers to 'other affordable routes to home ownership' which means other low cost home ownership products which are available at a price equivalent to at least 20% below local market value. This has significantly widened the scope of the type of housing that may be considered 'affordable'

3.17 Paragraph 64 sets out an expectation that at least 10% of homes on major development (i.e. 10 or more homes or greater than 0.5 hectares) should be available for affordable homeownership as part of the overall housing contribution on the site, unless this would exceed the level of affordable housing required in the area, or significantly prejudice the ability to meet the identified affordable housing needs of specific groups. Affordable housing should not be sought for residential developments that are not major developments (Para. 63).

3.18 Local Plan policy HA2 sets a higher threshold than the provisions of paragraph 63 and does not specify the tenure split. However on the basis of the 30% overall affordable housing provision set by Policy HA2, the tenure split would be 66/33 rented to affordable home ownership. The Council's Affordable Housing Position Statement (November 2017) sets out that total affordable housing provision will

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be sought on average in a 70/30 percentage split between rented housing (social or affordable) and intermediate housing (including affordable home ownership initiatives) in favour of rented to reflect the Council's wish to assist a range of incomes access affordable housing and create more sustainable communities. Swindon Borough Council will adjust this tenure ratio according to the characteristics of any particular development especially with regard to higher value areas where affordable home ownership may not be sufficiently affordable.

- 3.19 In light of the revisions to the rNPPF, the Council's Position Statement will need to be updated and the rNPPF provisions applied to major applications.

Making Effective Use of Land

- 3.20 The rNPPF re-emphasises that 'substantial weight' should be given to the use of suitable brownfield land within settlements for 'homes and other identified needs.' It also confirms that planning policies and decisions should promote and support the development of underutilised land and buildings (especially to meet housing needs where land supply is constrained); and support opportunities to use the airspace above existing residential and commercial premises for new homes. (Para. 118)
- 3.21 The rNPPF is clear that planning policies and decisions need to reflect changes in the demand for land. LPA's will need to undertake regular reviews of both allocated land and land availability and if it considers there to be no reasonable prospect of an application coming forward, they should either reallocate the site for a more deliverable use; or deallocate a site if no alternative use would be deliverable. As this process will need to form part of plan review, in the immediate term, applications for alternative uses should be supported where this would contribute to meeting an unmet need. (Para. 120)
- 3.22 Furthermore, the rNPPF requires LPA's to adopt a positive approach to applications for alternative uses of land on previously developed sites not allocated for a specific purpose. Particular support should be given to the re-use of retail and employment land for homes in areas of high demand, provided this would not undermine key economic sectors, key economic sites or the vitality and viability of town centres. (Para. 121)
- 3.23 LPA's should refuse applications which they consider fail to make efficient use of land. (Para. 123)

Achieving well-designed places

- 3.24 Pre-application consultation is emphasised within the rNPPF, stating that 'Applications that can demonstrate early, proactive and effective engagement

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with the community should be looked on more favourably than those that cannot.’ (para. 128)

- 3.25 Paragraph 103 states that LPA’s should seek to ensure the quality of approved development is not materially diminished between permission and completion. This policy addition will now give LPA’s a greater ability to resist the downgrading of schemes through changes to the approved materials for example, which are usually sought through the Non Material Amendment process, or through the acceptance of a more viable scheme.

Viability

- 3.26 The emphasis is now assessing scheme viability at the Plan making stage when sites are considered. The rNPPF makes it clear that development schemes should be assumed capable of meeting up to date policy requirements for contributions.. LPA’s are directed to attribute weight to viability assessments in their role as decision taker having regard to any change in circumstances including whether the plan and its viability evidence are up to date, and any changing circumstance. All viability assessments should be made publicly available. Planning Practice Guidance has also been updated with regards to undertaking viability assessments and should be the starting point for establishing the methodology required. The new practice guidance also makes it clear that the price paid for land is not a relevant justification for failing to accord with relevant policies in Plans. However, it is also the case that a balance needs to be achieved in respect of policy expectations and returning a reasonable profit to the developer in order to bring about the required development in the Borough.
- 3.27 The Local Plan was subject to a viability assessment at submission for examination alongside more detailed assessments for the New Eastern Villages and Kingsdown allocations, being the only two sites at that time not benefiting from outline permission. Individual viability assessments have been submitted for applications on these sites which have been assessed in relation to the policy requirements and informed S106 negotiations.
- 3.28 In progressing the Local Plan Review, a new viability policy will require extensive consultation with landowners, infrastructure providers, land promoters and affordable housing providers to assemble evidence to underpin and justify the cost of policies to development sites. The aim is therefore to achieve a viability position that all parties have contributed to, in order to reduce the volume or extent of viability assessments being undertaken at the planning application stage.

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Use of Conditions

- 3.29 The rNPPF has added further provisions to the use of planning conditions. It now stipulates that planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, where they are enforceable, precise and reasonable in all other respects. Agreeing conditions early is beneficial to all parties and can speed up decision making. Conditions that are required to be discharged before development commences should be avoided, unless there is a clear justification. (Para. 55)

Planning for Waste

Planning policies for waste management for the Borough are contained within three Development Plan Documents (DPDs) produced jointly with Wiltshire Council; the Wiltshire and Swindon Waste Core Strategy DPD (2009), the Wiltshire and Swindon Waste Development Control Policies DPD (2009), and the Waste Sites Allocation Local Plan (2013). The rNPPF does not specifically deal with waste matters, deferring to the National planning Policy for Waste (2014). However the rNPPF does state that plans and decisions for waste development should have regard to policies in the rNPPF where relevant (Para 4).

Next Steps

- 3.30 This report will serve to provide a clear position statement on the application of planning policies and supplementary planning guidance until such time as the emerging Local Plan Review is adopted.

4. Alternative Options

- 4.1 The Council could delay providing a position statement on the policy framework, and instead continue to rely on the adopted Local Plan without clarity with regard to consistency with the Revised National Planning Policy Framework. However, this could potentially weaken the Council's position when considering proposals for development.

5. Implications, Diversity Impact Assessment and Risk Management

Financial and Procurement Implications

- 5.1 There are no direct financial and procurement implications as a result of this Report, however there maybe an impact on planning fee income, positive or negative which will be monitored. The viability consultation, typologies and S106 monitoring requirements will have some resourcing issues over and above

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current expectations. These are being addressed through restructure of the Council's planning services with no increase in base budget.

Legal and Human Rights Implications

- 5.2 Legal and Human Rights implications were taken into account in preparing this report. It is considered that the recommendations are consistent with Convention Rights.

All Other Implications (including Staff, Sustainability, Health, Rural, Crime and Disorder)

- 5.3 Changes to fee income would directly affect the Council's ability to fund the planning service and retain its current level of staffing. At this stage it is difficult to assess the market reaction to the revised NPPF.
- 5.4 The rNPPF does not remove or negate the sustainability appraisal of the Local Plan.

Diversity Impact Assessment

- 5.5 As this Report concerns the changes to Government policy there is no Diversity Impact Assessments (DIA). However any Swindon Borough Council policy documents that are produced to be in accordance with such changes to national policy, such as the Swindon Borough Local Plan, will be subject to a DIA.

Risk Management

- 5.6 Through its Annual Monitoring Report the Council will assess the Local Plan policies and if appropriate revise them as part of the Local Plan Review.

6. Consultees

- 6.1 The Head of Finance - Section 151 Officer and Director of Law and Democratic Services (Monitoring Officer) are consulted in respect of all reports.

7. Background Papers

None

8. Appendices

- 8.1 Appendix 1: Schedule of Conformity of Swindon Borough Local Plan Policies with the Revised NPPF
- 8.2 Appendix 2: Schedule of Conformity of Wiltshire and Swindon Waste Development Plan Documents with the Revised NPPF

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- 8.3 Appendix 3: Schedule of Conformity of Supplementary Planning Documents and Guidance with the Revised NPPF