



Trafford Core Strategy Examination

Main Matter 6

**Further comments in
response to Inspector's Note
7. Draft National Planning
Policy Framework (NPPF)**

Pioneer Property Services

On behalf of Emery
Planning Partnership

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1.0 Introduction

- 1.1 On the 28th of October 2010 the Government published the Whitepaper entitled 'Local growth: realising every place's potential' ("Whitepaper"). The whitepaper introduced Government aims to 'fundamentally reform' / streamline national policy, and introduce a 'simple national planning framework'.
- 1.2 A period of public consultation seeking feedback upon the shape that the revised National Planning Policy Framework ("NPPF") should take came to an end on the 28th of February 2011. The National Planning Policy Framework Practitioners Advisory Group were invited by the Rt Hon Greg Clark MP (Minister of State for Decentralisation) to submit their 'independent recommendations on what the National Planning Policy Framework should contain'. In May 2011 the 'National Planning Policy Framework A proposed draft from the Practitioners Advisory Group' ("NPPF Recommendation") was published setting out the Advisory Group's recommendations. On 25th July 2011 the Government published their draft NPPF, together with an Impact Assessment for consultation. These documents are open for consultation until 17th October 2011.
- 1.3 In recognition of the great significance attached by the Government to these proposed policy changes the inspector issued a note that was circulated to all previous participants (Inspector's Note 7). The note recognised whilst the publication draft of the NPPF is a consultation document and subject to potential amendment it nevertheless gives a clear indication of the current 'direction of travel' in planning policy. Consequently the inspector invited further comment as to degree to which the draft NPPF may have a bearing on the soundness of the Core Strategy.
- 1.4 The content of this representation relates to the soundness of policy L2 (Meeting Housing Needs), and in particular matters pertaining to the economic viability of the proposed affordable housing targets, and the site size threshold at which affordable housing provision would be sought in 'hot' and 'moderate' market locations.

2.0 The Draft NPPF

- 2.1 The draft NPPF considers a presumption in favour of sustainable development (pages 3 to 6) to be at the heart of the planning system. This presumption is to be viewed as a 'golden

thread' which is to run throughout both 'decision taking' and 'plan making',¹ and places 'significant weight' on the need to support economic growth'.² When assessing development proposals the draft NPPF states that local planning authorities 'should apply the presumption in favour of sustainable development',³ and Local Plans should be prepared on the basis of the 'objectively assessed development needs'.⁴

2.1 Local Planning Authorities are directed to:

“grant permission where the plan is absent, silent, indeterminate, or where relevant policies are out of date.”

(paragraph 14 – NPPF – emphasis added)

It would therefore clearly be folly to pursue a plan whose policies, upon adoption, were immediately out of date as a result of their conflict with the draft NPPF and a contrary to the presumption in favour of sustainable development.

2.2 The draft NPPF defines sustainable development in relation to housing as meaning:

“planning for people (a social role) – use the planning system to promote strong, vibrant and healthy communities, by providing an increased supply of housing to meet the needs of present and future generations; and by creating a good quality built environment, with accessible local services that reflect the community's needs and supports its health and well being.”

(paragraph 10 – NPPF – emphasis added)

In this regard it should be noted that the need to ensure an increased supply of housing does not differentiate between market and affordable housing. Whilst there may be a present need for an element of affordable housing to be provided there is no certainty that future generations will also require affordable housing. Indeed, a substantial increase in the rate of housing supply, coupled with economic growth could theoretically alleviate any requirement for additional affordable housing in the future. It would clearly be perverse to plan for a future where housing affordability had not improved by seeking to restrain new market supply on the grounds that it did not contribute sufficient affordable housing to meet

¹ paragraph 14

² paragraph 13 and paragraph 54

³ paragraph 64, page 16

⁴ paragraph 110, page 31

present needs. The least sustainable outcome of all would be a failure for any new housing to be delivered.

- 2.3 Development plans should be consistent with the objectives, principles and policies of the draft NPPF, which include a requirement to ensure proposals are deliverable and viable.

“To enable a plan to be deliverable, the sites and the scale of development identified in the plan should not be subject to such a scale of obligations and policy burdens that their ability to be developed viably is threatened. To ensure viability, the costs of any requirements likely to be applied to development, such as requirements for affordable housing, local standards, infrastructure contributions or other requirements should, when taking account of the normal cost of development and on-site mitigation, provide acceptable returns to a willing land owner and willing developer to enable the development to be deliverable.”

(paragraph 39 - NPPF– emphasis added)

As has been demonstrated in previous representations the Trafford Core Strategy has failed to assess the cumulative economic impact of affordable housing requirements (policy L2), climate change (Policy L5), and planning obligations (Policy L8). The Trafford Economic Viability Study (“TEVS”) dated May 2009 acknowledged that the draft cost assumptions modelled in respect of policy L5 had not been incorporated within its report, and that developer contributions were based on the figures published within SPD1 (March 2007) and SPG4 rather than the revised draft SPD1 (February 2011), the scope of whose planning obligations and costs is much higher.

- 2.4 It is also important to note that the provision of acceptable returns to both willing landowners and willing developers would comprise a material consideration in the determination of a planning application.
- 2.5 The draft NPPF also retains the requirement that local authorities prepare a Strategic Housing Land Availability Assessment (“SHLAA”), which not only should assess the availability and suitability of land, but also the:

“...likely economic viability of land to meet the identified requirement for housing over the plan period.”

(paragraph 28 - NPPF)

- 2.6 Crucially, the draft NPPF reiterates its definition of viability within a footnote (number 5) to paragraph 109 (which relates to maintaining a rolling 5 year deliverable housing supply including an additional allowance of ‘at least’ 20%). This states that for a site to be considered deliverable it should:

“...at the point of adoption of the Local Plan be available now, offer a suitable location for development now, and be achievable with a realistic prospect that housing will be delivered on the site within five years and in particular that development of the site is viable i.e. that it would provide acceptable returns to a willing landowner and a willing developer based on current values and taking account of all likely infrastructure, standards and other costs.”

(emphasis added)

Therefore, where an allocated site is unable to provide acceptable returns to ‘willing’ landowners / developers having had regard to all of a local authorities infrastructure, standards and other costs (including affordable housing) it will need to be removed from the 5 year land supply. This may indicate that a rolling 5 year land supply is not deliverable which would necessitate a review of Local Plan developer contribution requirements (including affordable housing provision) to ensure the continued viability of deliverable sites.

- 2.7 It is also important to note the requirement that viability be assessed on current values. This is further emphasised by a requirement that policies and standards should enable development to take place now, and not be dependent on some future economic scenario:

“In order to be appropriate, the cumulative impact of these standards and policies should not put implementation of the development plan at serious risk, and should facilitate development throughout the economic cycle.”

(paragraph 41 – NPPF – emphasis added)

- 2.8 In this regard it should be noted that the TEVS is based upon the premise of ‘normal’ housing market conditions, which were estimated using a trend based extrapolation of Land Registry property values over the period 1996 to Q4 2008 (a period when average property values in Trafford increased by 297%). Paragraph 2.24 of the TEVS stated that this methodology equated to an average house price in Trafford of £240,000 if projected

forward to Q1 2009. However, the average house price recorded by the Land Registry for the same period (January 2009) was just £180,007, and as of June 2011 was £180,926.

- 2.9 It is evident that the average house prices in 'normal' market conditions assumed by the TEVS are 25% higher than actual recorded average house prices, presumably as a result of their trend based forecasting failing to take account of a stabilisation in prices over the past 30 months, which indicate a 'new normality' in the housing market. It is clear that policy L2 as informed by the TEVS would be in conflict with the NPPF as viability is not based on current values and consequently the affordable housing targets are patently not capable of being delivered at this point in the economic cycle.
- 2.10 The draft NPPF provides further direction that the objectives of a local plan must be capable of delivery having regard to a realistic assessment of the resources available;

"Each local planning authority should produce a Local Plan for its area. This can be reviewed in whole or in part to respond flexibly to changing circumstances."

(NPPF – paragraph 21)

With regard to policy L2 this would suggest that the burden of proof unequivocally lies with local authorities to demonstrate that their affordable housing targets and thresholds are capable of delivering the objectives of the Local Plan in current market conditions. As drafted, the affordable housing targets within policy L2 represent aspirational figures used to inform the upper limit of a site specific viability negotiation where the burden of proof is with the applicant. Should circumstances change, (such as a substantial increase in the rate of economic growth or increase in house prices) then the plan, or individual policies within it can be reviewed in response.

- 2.11 This paragraph continues to state that:

"Supplementary planning documents should only be necessary where their production can help to bring forward sustainable development at an acceptable rate, and must not be used to add to the financial burdens on development."

(paragraph 21 – NPPF)

Policy L2 is dependent upon the draft Planning Obligations SPD for its interpretation (policy text paragraphs L2.10 & L2.13 and policy justification paragraphs 11.9, 11.14, 11.16 & 11.18). The contents of the SPD do not assist in bringing forward sustainable

development at an acceptable rate but do contribute to the financial burdens on development. In this regard policy L2 is in conflict with the NPPF and should be redrafted and expanded to obviate the need for an SPD.

2.12 As has been contended previously policy L2 is not informed by a robust and credible evidence base in consequence of which the policy may be considered to be in direct conflict with the objectives of the NPPF and is therefore unsound. Previous representations have illustrated that the assumptions used in the TEVS are flawed, and in respect of smaller sites, fail to generate **an acceptable land value for a willing land owner** which enable development to be deliverable⁵.

2.13 It is acknowledged that the draft NPPF does not propose a minimum site size threshold for affordable housing. Paragraph 29 of PPS3 sets a national indicative minimum threshold of 15 dwellings, but permits local planning authorities to set lower thresholds 'where justified and practicable' i.e. subject to evidence that they would not constrain the supply of land for development.

2.14 The accompanying Impact Assessment to the draft NPPF advises that the rationale for removing the national indicative minimum threshold is that local councils are best placed to decide on the appropriate threshold for their area, and that a nationally set threshold may not be appropriate to all areas. However, it is evident that any targets and thresholds set must still be deliverable having regard to an assessment of their viability, and be subject to examination in public:

"...a local planning council will only be able to justify lowering the threshold, as is the case under current policy, where they have evidence that doing so would not have an unacceptable effect on the viability of development in the area."

(Impact Assessment – page 64)

And;

"... each local council's proposed approach will be subject to independent examination. This will give developers and the community a full opportunity to present evidence on the likely impact of a proposed threshold."

(Impact Assessment – page 65)

⁵ Paragraphs 3.1 – 3.5 – Comments in response to Council's proposed changes to Core Strategy Policy L2 – 14th March 2011

It is considered that sufficient evidence has been submitted in detailed representations dated September 2010, February 2011, March 2011 and May 2011 to explain the identified deficiencies in the Councils evidence base that would justify an affordable housing threshold of 5 dwellings in 'hot' and 'moderate' market areas.

- 2.15 To reiterate however, in respect of the proposed affordable housing threshold in Policy L2 of 5 dwellings in 'hot' and 'moderate' market areas, the authors of the TEVS cast considerable doubt on whether this threshold was viable, and in paragraph 6.68 provided the following caution:

“However, it is noted that this analysis is based on a set of generalised assumptions within the viability model. Viability should be assessed on a site by site basis by Trafford Council, and judgements made regarding exact contributions in light of more detailed cost and value information being provided at the time of the application”

In consequence of this they suggested instead that viability should be assessed on a scheme by scheme basis. As has been demonstrated, such an approach would be in conflict with the draft NPPF as there has been a failure to comprehensively assess the burdens of development so as to ensure the objectives of the plan can viably be delivered whilst ensuring an acceptable land value for a willing land owner.

3.0 Conclusions

- 3.1 Although the draft NPPF does not indicate a minimum site size threshold at which sites may be expected to provide an element of affordable housing, it is evident that the burden of proof still lies with a local planning authority to demonstrate that both the threshold and proportion of affordable housing sought is viable, and will not prejudice the objectives of the Local Plan being delivered.
- 3.2 It is therefore requested that the site size threshold for affordable housing provision in 'hot' and 'moderate' market areas remain as per the national indicative minimum within PPS3 until such time as the Council are able to undertake a review of policy L2 informed by an

appropriate and up to date viability study which involved the developers of smaller sites in the borough as stakeholders.

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Neil Tatton
Pioneer Property Services Ltd
792 Wilmslow Road
Didsbury
Manchester
M20 1HG