

POS Enterprises

Barnsley Metropolitan Borough Council

Draft review of the local plan - appraisal

10 July 2022

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1 Introduction

- 1.1 Barnsley Metropolitan Borough Council has a local plan adopted in January 2019. The National Planning Practice Framework (NPPF) requires that:

“Policies in local plans and spatial development strategies should be reviewed to assess whether they need updating at least once every five years, and should then be updated as necessary. Reviews should be completed no later than five years from the adoption date of a plan, and should take into account changing circumstances affecting the area, or any relevant changes in national policy. Relevant strategic policies will need updating at least once every five years if their applicable local housing need figure has changed significantly; and they are likely to require earlier review if local housing need is expected to change significantly in the near future”.

- 1.2 The Council has prepared a draft review of the local plan using the Planning Advisory Service Local Plan Route Mapper Toolkit Part 1: Local Plan Review Assessment. The toolkit reflects guidance in the National Planning Practice Guidance on matters which need to be addressed in carrying out a review.
- 1.3 The Council has appointed Andrew Wright of POS Enterprises to act as critical friend in support of the preparation of the local plan review. This report reflects his appraisal of the draft review.
- 1.4 The critical friend has not sought to independently verify that each conclusion drawn in using the PAS toolkit is soundly based. That would be a major exercise, and would nevertheless be problematical since the critical friend does not have the detailed knowledge of the area, its issues and circumstances which the officers have. Accordingly, the appraisal is predicated upon the assumption that conclusions drawn by the officers are well founded in the evidence, though in some instances comments are offered.
- 1.5 Before coming to the draft review itself, some comment is useful on two matters: the reform proposals of the Levelling Up and Regeneration Bill; and the practicalities of a partial plan update.

2 The Levelling Up and Regeneration Bill

- 2.1 The Planning White Paper proposed far-reaching changes to the planning system, which if implemented in full would have left us with a very different system from the present. However, it became apparent that The Government was retreating from some of the more radical proposals, and the Levelling UP and Regeneration Bill may be seen as a range of focussed changes rather than root-and-branch change.
- 2.2 Nevertheless, the Bill does propose a significant suite of changes to the plan making system, including:
- the option for groups of LPAs to prepare joint spatial strategies
 - restriction to one local plan per LPA
 - a requirement to publish a timetable for plan preparation, with an expectation that it will take less than 30 months
 - the introduction of “supplementary plans”, to replace SPDs

- repeal of the duty to cooperate, allied to a new soundness test
 - data standards for plan making
 - national development management policies
 - environmental outcome reports to replace SEA, EIA and sustainability appraisal
 - gateway checks by an independent person at prescribed stages
 - design codes to be prepared for entire LPA areas
 - neighbourhood priorities statements as an input into local plans
 - greater weight for local plans and national DMT policies in decision making
- 2.3 The Bill also proposes the replacement of the Community Infrastructure Levy by a new Infrastructure Levy, which will be mandatory for all LPAs.
- 2.4 Further, the Bill contains extensive powers for the Secretary of State to make regulations, which it is suggested could inter alia include coverage of the scope, content and form of local plans.
- 2.5 The Bill was brought forward under the aegis of Michael Gove, but he has since been replaced by Greg Clark as Secretary of State. It is not known whether he will wish to bring forward any changes to the legislative proposals in the Bill, which creates a measure of uncertainty at this time.
- 2.6 It is anticipated that the Bill will take up the remainder of the calendar year to pass through Parliament (if nothing happens to upset matters). It will then be necessary for DLUHC to consult on draft regulations to bring the proposed changes fully into effect.
- 2.7 Whilst matters should become progressively clearer, it is considered that it would be unwise for any planning authority to embark on a major plan update initiative in the short term, whatever the outcome of a plan review. There would be too much risk of abortive work, or finding that the approach taken had been superseded. It would be more prudent to wait until draft regulations are published and their effects can be considered, and the practical implications of these are becoming reasonably clear across the planning community.

3 Partial review

- 3.1 The NPPG at paragraph 069 of the section on plan-making says “A local planning authority can review specific policies on an individual basis”. This is commonly referred to as partial review.
- 3.2 Caution is needed here. Whilst the NPPG refers to update of specific policies, there would be significant risks associated with partial review of any policy which is fundamental to the strategy of a plan. That is because changes to such a policy could be expected to have knock-on effects on other aspects of the plan. In other words, it could prove difficult to retain the narrow focus of the plan review, without finding that wider changes were necessary which could make the review process more akin to a full plan update.
- 3.3 It follows that partial reviews are most suitable for self-contained policies (or current policy gaps) which can safely be addressed in isolation from other aspects of the plan. As an example, an internet search has brought out several cases where LPAs wished to update their climate change policies to reflect up-to-date national policy and understanding.

- 3.4 The preparation of a partial review must follow the same processes and stages as the preparation of a new plan or a full plan update. Whilst the way matters are dealt with can be proportionate to the nature of the changes proposed, the amount of work, cost and resources involved in a partial review should not be under-estimated. The critical friend has received comment from one authority that carried out a partial review, that the benefit gained was nowhere near worth the time and cost involved.
- 3.5 There are alternative ways in which a planning authority can adapt its decision making where national planning policy has changed, or other circumstances have changed, which are touched upon later in this report.

4 The draft review - overview

- 4.1 as noted earlier, the Council has used the Planning Advisory Service toolkit. This works through the potential reasons to conclude that a plan update is required, as set out in paragraph 065 of the NPPG section on plan-making. Specifically, the toolkit seeks a conclusion in each case as to whether the authority agrees or disagrees with a statement in relation to the particular consideration, eg “The plan policies still reflect current national planning policy requirements”.
- 4.2 The critical friend has considered each answer given. It is noted above that he has not sought to verify each answer, but worked on the assumption that the answers given are well founded in the evidence. It is noted that in a number of instances the authority cites specific evidence in support of its conclusion.
- 4.3 However, there are some aspects of the draft review where the answers appear to be based upon a degree of speculation rather than the current evidence. These are now taken in turn.

5 Change in local housing need

- 5.1 The NPPG says (in effect) at paragraph 065 of the plan-making section that a reason a plan update may be required would be where there has been a change in the local housing need.
- 5.2 The local plan was prepared and submitted before the standard method for assessment of housing need was introduced. It was therefore based on the Council’s own Objective assessment of housing need (OAHN). Following initial hearing sessions, the Inspector concluded that an uplift to the OAHN was needed to balance the housing proposals with the Council’s employment growth proposals. The Council carried out further work, and came up with an OAHN of 1134 dpa, which the Inspector accepted. The Inspector noted that at that time the indicative base figure for housing need using the standard method was 898 dpa.
- 5.3 The current draft review says that the standard method gives a lower figure than the local plan housing target. However, the NPPG says that the figure arrived at using the standard method is a minimum starting point, and it remains necessary to consider circumstances where it is appropriate to consider whether actual housing need is higher than the standard method indicates, eg to align with an employment growth strategy.
- 5.4 It is understood that the Council remains committed to enhancing the local economy through promoting growth in the amount and quality of employment. It follows that as and when it brings forward a full update of the local plan, it will need to review its employment growth and land targets. It will need to consider whether the housing need figure given by the standard method at that time (which may be revised from the present formula) is in balance with the employment proposals, or should be subject to an uplift.

In other words, it will need to go through a similar process to that which was involved with the current plan.

- 5.5 But that is for the future. Without undertaking a considerable amount of work on employment and housing policy, including examination, the Council cannot say at this time whether the housing need figure which would emerge will be higher or lower than the OAHN in the local plan. What can be said is that because the minimum starting point given by the standard method is well below the OAHN figure, there is no prime facie case that local housing need is higher.
- 5.6 Moreover, the PAS Route Mapper says that where the plan is not delivering the housing, rather than updating the plan it may be more effective to intervene in other ways. This reflects the situation where an LPA which is not meeting the Housing Delivery Test is required to prepare an action plan, with a view to bringing forward actions which will assist improvement of the supply.
- 5.7 It is advised that in answering Plan Review Factor A2 in the PAS toolkit, the Council should reflect the reasoning here.

6 5-year supply of housing land

- 6.1 The draft review answers Plan Review Factor A3 “Yes”, and says that its latest 5-year supply note indicates a supply of 5.6 years. It is of course possible that circumstances will lead to the Council being short of a 5-year supply at some future date, but circumstances might also change to improve the supply. Moreover, should the supply fall below 5 years at a particular date, the Council would need to ask whether the evidence suggests that this will continue, or that the supply is likely to increase again. There are a number of ways planning authorities can seek to improve their housing supply, as demonstrated by Housing Delivery Test action plans.
- 6.2 The Council will need to keep its 5-year supply evidence up to date as part of annual monitoring. But as of now it is proper to record that the current evidence does show a 5-year supply.

7 Changes in economic conditions

- 7.1 The draft review answers “Agree in part” to Plan Review Factor A6, referring to the effects of the pandemic, the impacts of Brexit being unknown, and the possibility that global issues impacting rising cost of fuel etc will impact on local businesses. It is certainly correct to consider such factors, but the draft review says that there is no evidence that large sites will not be developed.
- 7.2 The Office for Budget Responsibility has estimated that the long-term effect of Brexit will be a 4% reduction in productivity, and that of Covid 2%. It is too soon to say what the longer-term effects of the Ukraine war will be. Moreover, it is in the nature of the economy to experience swings over time – which is why there is an inherent degree of uncertainty in economic forecasting. However, whilst the wider economy may be affected, as of now the council has no evidence of the effects locally, and as noted large sites continue to progress.
- 7.3 It is therefore advised that the review acknowledges that there are uncertainties about future economic conditions, but records the current evidence that sites continue to be delivered.

8 Development viability

- 8.1 In relation to Plan Review Factor A7, the draft review answers “Disagree” to the statement “There have been no significant changes affecting viability of planned development”. The adjoining text says that rising costs nationally may impact on viability of development, but the Council is not seeing evidence of this at present. So the answer is rather speculative.
- 8.2 If there is evidence that viability considerations are reducing the amount of affordable housing secured, or that developers have paused development on sites for viability reasons, that would impact upon the answer to this factor. But a view would need to be taken, based on evidence, as to whether this is a transitory situation or likely to be ongoing.
- 8.3 Moreover, in relation to a particular development project, it is available to the developer to present evidence that the viability conditions for the project present particular issues, and that the approach to assessment of viability prepared for the local plan is therefore not fully valid in that instance. This would need to be dealt with on a case-by-case basis.
- 8.4 As of now, it would appear to be proper to answer “Agree” to this factor, but retain the note that rising costs nationally may impact on viability, and that this will be monitored.

9 Achievability of plan policies

- 9.1 It is noted that at this time the draft review does not provide an answer to Plan Review Factor A12, pending consultation with development management officers.

10 National planning policy

- 10.1 It is an unavoidable feature of the planning system that once local plans have been adopted, aspects of national planning policy or guidance, or related regimes change, and need to be taken into account in decision making. It is of course impracticable to update a local plan every time there is a change in national policy or guidance. Rather the long-established practice is to take account of such changes by considering them as material conditions in decision making.
- 10.2 The issue is therefore whether changes have taken place since the plan was adopted which either on their own (because of their fundamental nature), or cumulatively mean that the local plan should be updated or replaced.
- 10.3 The draft review answers Plan Review Factor 1 of the PAS toolkit with “Mostly agree”. It lists a number of matters where national policy has changed, or new policy would be desirable. The critical friend agrees that none of the matters identified has changed so fundamentally as to make the local plan significantly out of date.
- 10.4 Apart from treating changes since the plan was adopted as material considerations in decision making, it is useful to consider whether there are other means of taking some of them on board.
- 10.5 The draft review refers to matters arising from the Environment Act, including the local nature recovery strategy and biodiversity net gain. The local nature recovery strategy will be prepared under separate legislation, and will not be part of the development plan, though appropriate connections may be desirable. As for biodiversity net gain, whilst the regime makes changes to how planning applications will be dealt with, including the requirement for the applicant to submit a “biodiversity gain plan”, the mechanisms will be set by the Environment Act and Regulations. A draft of the latter was the subject of consultation from January to April this year. It is not easy to see what more a local plan

- can say as policy, given that the biodiversity net gain regime is set out in some detail, and is mandatory.
- 10.6 In relation to First Homes, the policy context is set out quite fully in the new section of the NPPG added in December 2021. Moreover, the guidance says that where an LPA wishes to set local criteria different from the standard scheme, they may do so through an interim policy statement.
- 10.7 In relation to other areas of change, the Council will wish to consider whether there is sufficient clarity in the NPPF and NPPG to assist decision making; or whether some other means is required. One possibility would be the preparation of a supplementary planning document or documents. However, decisions on legal challenges have concluded that SPD cannot be used to develop new planning policy, and that this should be done only through a development plan document – essentially the local plan. The scope for use of SPD therefore appears very limited, since the whole point would be to address policy gaps.
- 10.8 The Levelling UP and Regeneration Bill proposes a new type of DPDs known as supplementary plans. As the Bill is currently drafted, these would only be able to address sites or groups of nearby sites, which would appear to rule out their use for updating policy. Moreover, even if their scope should widen as the Bill progresses, it could be two years or more from now before we know whether they would be available as an instrument for policy update.
- 10.9 There is also of course the possibility of a partial review, the practicalities of which have been considered earlier in this report.

11 Publication

- 11.1 It is, of course the Government's intention that review reports should be published, so that other interests may be aware of the Council's conclusions. It follows that the review should be published as soon as it is ready. That should include setting out clear reasons for conclusions, referring to relevant evidence, as set out in the PAS toolkit.

11 Joint waste plan

- 11.1 The officers have raised the issue of whether similar considerations would apply to a review of the joint minerals and waste plan, and supplied a preliminary draft review which again uses the PAS toolkit. The critical friend is not a waste planning specialist, but the draft review does suggest that the world has moved on significantly since it was prepared.
- 11.2 However, the concerns set out here in relation to changes to the planning system by the Levelling UP Bill (so far as they are relevant to waste planning) would be relevant. And of course, any decision about an update to that plan are a matter for the partner authorities, who will have to take account of their collective circumstances.

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