

**REPORT TITLE:
COMPLIANCE CHECKLIST OF LDF POLICIES AGAINST THE
NATIONAL PLANNING POLICY FRAMEWORK**

**REGULATORY COMMITTEE
MEETING DATE**

26th March 2013

Classification:

Open

Wards Affected:

All Wards

Cabinet Member

Councillor Guy Nicholson

Cabinet Member for Regeneration

Corporate Director

Gifty Edila – Legal, HR and Regulatory Services

1. CORPORATE DIRECTOR'S INTRODUCTION

- 1.1 The National Planning Policy Framework (NPPF) came into force on 27 March 2012. The framework acts as guidance for local planning authorities and decision-takers, both in drawing up plans and making decisions about planning applications. It replaces most of the previous Governmental Planning Policy Guidance and Planning Policy Statement documents.
- 1.2 Under the transitional arrangements for the NPPF, for 12 months from the day of publication, decision-takers may continue to give full weight to relevant policies adopted since 2004 even if there is a limited degree of conflict. In other cases and following this 12 month period, due weight should be given to relevant policies in existing plans according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).
- 1.3 As such, the main current Local Development Framework planning policy documents adopted prior to the NPPF publication are the Core Strategy and the saved Unitary Development Plan policies, and a compliance checklist using the Planning Advisory Service's template structure has been undertaken to establish if there are any significant inconsistencies between the Framework and the policies which would mean that those policies should either no longer apply or should be given limited weight. This information is necessary for all users the Council's LDF planning policy, such as developers/applicants, local businesses, residents, Council staff and Members, and other key stakeholders.
- 1.4 All of the Core Strategy policies are considered in compliance with the NPPF, as are most of the saved UDP policies, with one policy proposed for deletion (partly on non-compliance grounds) and two proposed to be given limited weight.

2. RECOMMENDATION(S)

2.1 Regulatory Committee is recommended to:

Note the content and recommendations of the NPPF Compliance Checklists for the Core Strategy and saved Unitary Development Plan.

3. REASONS FOR DECISION

As above, the checklists establish if there are any inconsistencies between Core Strategy and saved UDP policies with the NPPF, which will determine if any existing policies need to be deleted or given less degree of weight.

4. BACKGROUND

The Core Strategy, the Council's key strategic spatial planning document, was adopted in November 2010, and in addition a number of UDP (adopted 1995) policies have been 'saved' (under the provision of the 2004 Planning and Compulsory Purchase Act) until replaced by development management policies. (The Development Management Local Plan (DMLP) is currently being produced, which will eventually replace the saved UDP policies). Both the Core Strategy and saved UDP policies were adopted/approved before the publication of the NPPF, and, under the transitional arrangements for the NPPF, an assessment of the compliance of policies against the Framework is required.

4.1 Policy Context

4.1.2 The compliance checklist of the Core Strategy established that all of the policies are fully compliant with the NPPF. Some minor amendments to the document are required to update the wording, such as reflecting the NPPF wording relating to 'presumption in favour of sustainable development' – these amendments can be picked up as editorial changes in due course. As such, all of the policies in the Core Strategy should be given full weight, with no reduced weight in favour of the NPPF for any policies. The principle remains the same – all development proposals should be determined in accordance with the development plan (Core Strategy) unless material considerations indicate otherwise (the policies in the NPPF are a material consideration).

4.1.3 For the saved UDP policies, policy R6 (Core Shopping Areas) is considered necessary for deletion. This policy has been superseded in both the adopted Dalston and Hackney Central Area Action Plan areas which set out the primary and secondary shopping frontages for those centres as required by the NPPF. The Core Strategy has introduced Finsbury Park as a District Centre which is not reflected in the UDP or its Proposals Map, and the DMLP identifies a secondary shopping frontage for the Centre. The saved UDP policy now only relates to Stoke Newington District Centre, and its resistance to non-retail uses is not consistent with an up-to-date survey of the identified Core Shopping Area (the DMLP policy 9 (Changing the Use of Shops in Town Centres) which sets out that 60% of units in the primary shopping frontage should be retail, based on the assessment of the current percentage of retail use there). Core Strategy policy 13 (Town Centres) allows for flexibility of uses in Stoke Newington. As such, although there is not a significant inconsistency between R6 and the NPPF, which requires the identification of primary and secondary frontages in centres, the policy is not compliant with current information and Core Strategy policy and thus should be deleted, with weight given to CS13 and emerging DMLP policy DM9.

- 4.1.4 With regard to saved UDP policy R7, Changes of Use in Shopping Centres, this policy relates to policy R6 which is identified for deletion as above, and policy R8 (Protecting Local Shops) which is not a saved UDP policy in any case (replaced by Core Strategy policy 13). This is not generally consistent with Dalston and Hackney Central AAPs, which identify primary and secondary frontages (and are NPPF-compliant), or DMLP policies 9 and 10 which also identify frontages, and thresholds for retail use in Local Shopping Centres, because policies in those documents allow for changes of use away from retail based on retaining a percentage of retail uses, rather than R7 which allows a change if “appropriate to a shopping centre in terms of function, mode of operation and appearance’. Overall though, it does facilitate flexible uses in Centres which the NPPF, the Core Strategy and DMLP policies require, so this policy does not affect the overall strategy, but limited weight should be given to it given the conflict with primary and secondary frontage policies in the AAPs and DMLP.
- 4.1.5 As regards saved UDP policy R9, Redundant Shops Outside Shopping Centres, this allows for flexibility in the consideration of alternative uses for redundant shop units, generally NPPF compliant, but does not reflect the need for proposals to factor in ‘market signals’ as required by the NPPF (this is contained within emerging DMLP policy DM10, Change of Use of Shops Outside Town Centres). However, CS policy 13 needs to be factored in which aims to protect ‘essential shops’ and community services. As such, limited weight should be given to this policy, weight will need to be given to CS13 and DM10.
- 4.1.6 If the Government’s proposed introduction of temporary changes to permitted development rights to allow for a change of use from B1(a) offices to C3 residential come into force, this will have a significant impact on the Council’s employment policies, and there may be a consequential impact on consistency with the NPPF. (For information, the Council has made bids to the Government for exemption from these changes). A review will be undertaken in due course once the extent of changes has been established.
- 4.1.7 The Council’s other adopted development plan documents (the four Area Action Plans for Dalston, Hackney Central, Hackney Wick and Manor House) have been adopted under examination by the Secretary of State-appointed Inspector against the NPPF, and thus no compliance check is needed. Other planning documents (eg SPDs) adopted prior to the NPPF publication will be reviewed in due course.

4.2 **Equality Impact Assessment**

An Equality Impact Assessment has been carried out for Core Strategy policies, and the loss or reduced weight given to the saved UDP policies R6, R7 and R9 is not considered to lead to adverse equality impacts.

4.2.1 Sustainability

Each LDF planning policy document needs to reflect 'the presumption in favour of sustainable development' as required in the National Planning Policy Framework', and a Sustainability Appraisal is required for each policy document. These checklists essentially ensure that the Council's core policies adopted prior to the publication of the NPPF reflect the presumption in favour of sustainable development.

4.3 Consultations

All of the Core Strategy and saved UDP policies have been subject to consultation. No consultation is required for this the compliance checklists. The deletion/reduced weight for saved UDP policies will be published on the Council's website.

4.4 Risk Assessment

The compliance checklists have not required a formal risk assessment. In effect, they are risk assessments in themselves in that they assess whether certain current planning policy should still be applied (the risk being that if they are applied and are not NPPF compliant the Council may lose any potential appeals arising from refusal to grant planning permission).

5. COMMENTS OF THE CORPORATE DIRECTOR FINANCE AND RESOURCES

5.1 This report reviews the compliance Checklist of LDF Policies against the National Planning Policy Framework which was adopted in March 2012.

5.2 There are no immediate financial implications arising from the introduction of the checklist, as existing Planning Policy staff will make any amendments necessary to LDF policy documents. Updating of all planning documents will minimise the risk of appeals as they will be complying with national guidelines.

6. COMMENTS OF THE CORPORATE DIRECTOR OF LEGAL, HR AND REGULATORY SERVICES

6.1 The Planning and Compulsory Purchase Act 2004, S38(6) provides that if a planning application is to be determined under the planning acts, it must be determined in accordance with the development plan i.e. the Core Strategy unless material considerations indicate otherwise. The National Planning Policy Framework (NPPF) is a material planning consideration together with other development plan and supplementary documents and other Gov Circulars, PPS/PPG guidance documents.

- 6.2 The NPPF requires that in plan making and decision taking, there is a presumption in favour of sustainable development – paragraph 14. Sustainable development entails economic, social and environmental gains be sought through the planning system – paragraph 7.
- 6.3 Where there is conflict between the Core Strategy, other development plan documents and the NPPF after March 2013, "the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given" to the policy. The implication is that very limited weight should be attached to a policy where it lacks conformity with the NPPF to a significant degree – paragraph 214.
- 6.4 The matters detailed in this Report and the Checklist accord with the model checklist recommended by the Local Government Association Planning Advisory Service.

APPENDICIES

Appendix 1 – National Planning Policy Framework Compliance Checklist of Core Strategy Policies.

Appendix 2 - National Planning Policy Framework Compliance Checklist of Saved Unitary Development Plan Policies

BACKGROUND PAPERS

None

Report Author	Alan Hesketh Alan Hesketh@hackney.gov.uk Tel. 020 8356 8231
Comments of the Corporate Director of Finance and Resources	Philip Walcott Philip Walcott@hackney.gov.uk Tel. 8356 2396
Comments of the Corporate Director of Legal and Democratic Services	Patricia Narebor Patricia Narebor@hackney.gov.uk Tel. 8356 2029