

Item: 6

Development and Infrastructure Committee: 26 March 2024.

Development Management Guidance – Housing in the Countryside.

Report by Corporate Director for Neighbourhood Services and Infrastructure.

1. Purpose of Report

To reconsider draft Development Management Guidance (DMG) in respect of Housing in the Countryside following publication of National Planning Framework 4 (NPF4).

2. Recommendations

The Committee is invited to note:

2.1.

That, on 6 February 2024, the Development and Infrastructure Committee recommended that consideration of the Development Management Guidance – Housing in the Countryside following publication of National Planning Framework 4 (NPF4) be deferred, to enable the Corporate Director for Neighbourhood Services and Infrastructure to undertake discussions with the North of Scotland Development Plans Forum and any other relevant local authority regarding how they were dealing with the potential incompatibility between the NPF4 Rural Homes Policy and any Housing in the Countryside Policy contained in their Local Development Plans which supports single house in-fill development within existing building groups in the countryside.

2.2.

That correspondence has been received from Aberdeenshire Council and the Cairngorms National Park, as detailed in section 3.4 of this report.

2.3.

That, as a result of the publication of National Planning Framework 4 (NPF4), Development Management Guidance in respect of Housing in the Countryside has been revised to provide additional clarification when assessing planning applications for housing in the countryside in the context of Policy 17 Rural Homes of NPF4.

It is recommended:

2.4.

That the Development Management Guidance – Housing in the Countryside, attached as Appendix 1 to this report, be approved.

3. Background

3.1.

Development Management Guidance (DMG) is produced to provide advice on the interpretation of policy matters. It is the intention of DMG to ensure consistency of approach and to highlight the original intention/spirit of a policy where there is ambiguity. As such, DMG is a material consideration in the determination of planning applications. Whilst DMG is not subject to public consultation, it is approved by Council prior to publication.

3.2.

In February 2023, the Scottish Government published National Planning Framework 4 (NPF4) with national planning policies. The Rural Homes Policy within NPF4 has some minor differences to the relevant policies of Orkney Local Development Plan 2017 (OLDP2017). In the event of any incompatibility between NPF4 and OLDP2017, NPF4 will prevail as it was adopted later.

3.3.

On 6 February 2024, when considering an initial draft of the DMG, the Development and Infrastructure Committee recommended that consideration of the Development Management Guidance – Housing in the Countryside following publication of National Planning Framework 4 (NPF4) be deferred, to enable the Corporate Director for Neighbourhood Services and Infrastructure to undertake discussions with the North of Scotland Development Plans Forum and any other relevant local authority regarding how they were dealing with the potential incompatibility between the NPF4 Rural Homes Policy and any Housing in the Countryside Policy contained in their Local Development Plans which supports single house in-fill development within existing building groups in the countryside.

3.4.

Correspondence has been received from two other Scottish Authorities on the approach they have taken. These authorities are Aberdeenshire Council and the Cairngorms National Park. When faced with no specific policy criteria within the Rural Homes Policy of NPF4 both of these authorities have adopted an approach that refers to text within the Rural Homes policy for Local Development Plans (LDPs) to set out tailored approaches to rural housing and where relevant proposals for future population growth; including provision for small-scale housing. This text further highlights that Plans should reflect local appropriate delivery approaches and that NPF4 should be read as a whole. As Supplementary Guidance: Housing in the Countryside (March 2021) is part of the Orkney Local Development Plan 2017 this is

considered to be the LDP setting out tailored approaches to rural housing development.

3.5.

The DMG has been updated to add this approach and explain the relevant parts of NPF4 that can justify the continued use of relevant housing in the countryside criteria including the infill in building groups. This approach will be in place until the review of the Local Development Plan is concluded. As part of the review of the Local Development Plan a detailed review will be undertaken to look at the future policy approach to housing in the countryside.

4. Equalities Impact

An Equality Impact Assessment (EqIA) has been undertaken for the Plan, which was endorsed by Council in 2017, therefore a standalone EqIA for this DMG is not required.

5. Island Communities Impact

As the Policy being developed in terms of this report has been assessed as being unlikely to have an effect on an island community which is significantly different from its effect on other communities (including other island communities) in Orkney, a full Island Communities Impact Assessment has not been undertaken.

6. Environmental Implications

A Strategic Environmental Assessment (SEA) has been undertaken in respect of the OLDP2017. It is not considered that a SEA is required for this DMG as it meets the requirements for exemption under Schedule 2 of the Environmental Assessment (Scotland) Act 2005.

7. Corporate Governance

This report relates to the Council setting out through this DMG further clarification of the existing OLDP 2017 following publication of a national planning strategy and therefore does not directly support and contribute to improved outcomes for communities as outlined in the Council Plan and the Local Outcomes Improvement Plan.

8. Financial Implications

All resources associated with the preparation of this DMG has been met through staff time and is covered within the existing Development Planning budget.

9. Legal Aspects

9.1.

The amended Town and Country Planning (Scotland) Act 1997 directs that planning decisions be made in accordance with the statutory development plan, unless material considerations indicate otherwise.

9.2.

Whilst DMG is not subject to public consultation, it is approved by the Council prior to publication. As such, DMG is a material consideration in the determination of planning application which is considered to be standing advice of the Planning Authority.

9.3.

While NPF4 provides flexibility in how to use the stated criteria and allows for 'tailored approaches', there is no explicit criteria in NPF4 Policy 17 Rural Homes to specifically support the inclusion of the infill housing element. There is therefore a risk that by taking the approach recommended in this report, the Council may be challenged on this aspect if the LDP is a factor in any review or appeal of a planning application.

10. Contact Officers

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11. Appendix

Appendix 1: DMG - Housing in the Countryside.

Development Management Guidance (DMG) Housing in the Countryside DMG following publication of NPF4 and specifically alignment with NPF4 Policy 17 Rural Homes and Orkney Local Development Plan 2017

Introduction

This DMG has been put together to give advice on housing in the countryside and how NPF4 rural homes policy 17 can be applied alongside Orkney Local Development Plan 2017 (OLDP2017)

NPF4 policy 17 sets out that the Local Development Plan should set out a tailored approach to rural housing and reflect locally appropriate delivery approaches. The Council's current 'tailored approach' is based on Policy 5 – Housing, Section E: Single houses and new Housing Clusters in the Countryside with associated Supplementary Guidance. This reflects the local context of Orkney and is considered to be a sustainable approach directing growth to the most appropriate areas in the Orkney context.

The Scottish Government's Chief Planner's Letter on Transitional Arrangements notes that "NPF4 will form part of the statutory development plan, along with the Local Development Plan (LDP) applicable to the area at that time and its supplementary guidance LDPs already adopted will continue to be part of the development plan." For avoidance of doubt, existing LDP land allocations will be maintained. However the Chief Planners Letter also states that "whether an LDP has been adopted prior to or after the adoption and publication of NPF4, legislation states that in the event of any incompatibility between a provision of NPF and a provision of an LDP, whichever of them is the later in date is to prevail (Town and Country Planning (Scotland) Act 1997 ("the 1997 Act"); section 24(3)).

The review of OLDP2017 is now underway and this DMG is an interim piece of guidance to aid development management until the new Orkney Local Development Plan is in place. It aims to show where there is alignment and where there is any incompatibility.

Rural Homes Policy 17 NPF4 compared with OLDP2017

Rural Homes Policy 17 within NPF4 has been reviewed to check for alignment with OLDP 2017. The review has concluded that the provisions of NPF4 allows for the continued application of policy provisions we have in Policy 5 – Housing, part E – Single Houses and new Housing Clusters in the Countryside of the OLDP2017.

The exception to that is infill development within existing housing groups in the countryside. There is no provision in the list of criteria in Policy 17 of NPF4 for its support. However, NPF4 allows within the text of Rural Homes for LDPs to set out tailored approaches to rural housing and where relevant include proposals for future population growth – including provision for small-scale housing and highlights that Plans should reflect locally appropriate delivery approaches and the NPF4 should be read as a whole. Whilst there is no explicit reference in Policy 17 to infill development within existing building groups it is considered sufficient weight can be placed in the NPF4 supporting text to have a tailored approach of supporting infill development within building groups.

To aid policy application a quick guide for where there is common alignment for different policy provisions is shown in Table 1 below.

Table 1 showing NPF4 Policy 17 compared with Policy 5 Housing, Section E OLDP 2017

NPF4 Policy 17 Rural Homes	Policy 5 – Housing, Section E OLDP 2017 and associated Supplementary Guidance: Housing in the Countryside
i. is on a site allocated for housing within the LDP;	N/A in the countryside
ii. reuses brownfield land where a return to a natural state has not or will not happen without intervention	<ul style="list-style-type: none"> • The Re-Use of Brownfield Land Policy 5E (iv) • The replacement of an existing building or structure Policy 5E (iii) (No architectural and/or historic merit)
iii. reuses a redundant or unused building;	The Conversion of a Redundant Building or Structure Policy 5E (ii)
iv. is an appropriate use of a historic environment asset or is appropriate enabling development to secure the future of historic environment assets;	The Conversion of a Redundant Building or Structure Policy 5E (iii) [where a building of 'historic merit']
v. is demonstrated to be necessary to support the sustainable management of a viable rural business or croft, and there is an essential need for a worker (including those taking majority control of a farm business) to live permanently at or near their place of work;	The Provision of a Single Dwelling House for a Rural Business Policy 5E (vii)
vi. is for a single home for the retirement succession of a viable farm holding;	The Provision of a Single Dwelling House to allow for Retirement and Succession of a Farm Policy 5E (viii)
vii. is for the subdivision of an existing residential dwelling; the scale of which is in keeping with the character and infrastructure provision in the area;	The Subdivision of a Dwelling House or its Residential Curtilage Policy 5E (v)
viii. reinstates a former dwelling house	The reinstatement of a Former Dwelling House Policy 5E (i)
viii or is a one-for-one replacement of an existing permanent house.	The Replacement of an existing building or structure Policy 5E (iii) in particular para 3.08 where 'existing house that has no historic or architectural merit, which provides a sub-standard level of living accommodation that is unsuitable for renovation

<p>No specific NPF4 support in Rural Homes Policy 17 for infill in existing housing groups however NPF4 allows for LDPs to set out tailored approaches to rural housing and where relevant include proposals for future population growth – including provision for small-scale housing and highlights that plans should reflect locally appropriate delivery approaches so gives flexibility to support OLDP approach.</p>	<p>Single House In-Fill Development within Existing Housing Groups Policy 5E (vi)</p>
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Conclusion

Table 1 above shows the relevant NPF4 policy 17 criteria and highlights where there is the complimentary alignment with the OLDP 2017. For most of these there is a complimentary alignment. The exception to this being Policy 5E (vi) Single House In-Fill Development within Existing Housing Groups which NPF4 does not explicitly support however the text within the Rural homes sets out LDPs should set out tailored approaches to rural housing and these should reflect locally appropriate delivery approaches which gives some flexibility to continue to support the current OLDP approach.

Given the extensive overlap and the policy hooks in NPF4 Rural Homes Policy 17 when viewed against OLDP 2017 it is reasonable to continue to use and apply the detailed interpretation of each of the current OLDP housing in the countryside policies using the existing Supplementary Guidance.