

Item: 8

Development and Infrastructure Committee: 6 February 2024.

Development Management Guidance – Housing in the Countryside.

Report by Corporate Director for Neighbourhood Services and Infrastructure.

1. Purpose of Report

To consider 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 Development Management Guidance provides advice on technical issues and the interpretation of given policies where a need arises, thus ensuring a consistency of approach in the determination of planning applications.

2.2.

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 prepared which provides additional clarification when assessing planning applications for housing in the countryside in the context of Policy 17 Rural Homes of NPF4, highlighting where there is alignment and incompatibility.

It is recommended:

2.3.

That the Development Management Guidance – Housing in the Countryside following publication of National Planning Framework 4 (NPF4), 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.

Upon review of NPF4, the main difference noted is that there are no specific policy criteria within the Rural Homes Policy to support single house in-fill development within existing building groups in the countryside, which the OLDP 2017 does have. This has created incompatibility between NPF4 and the OLDP2017 for this aspect of the Housing in the Countryside Policy and the need for guidance to clarify this difference.

3.4.

To understand the implications of this, monitoring of the Local Development Plan has shown that the level of housing that has been approved over the lifetime of the plan using this part of the OLDP 2017 Policy is only eight dwellings out of a total of 221 dwellings approved overall in the countryside. Therefore, the change in approach for this part of the Policy will have a very limited impact on the delivery of housing when viewed against the overall numbers of new houses that are supported in the countryside.

4. Development Management Guidance

4.1.

This Development Management Guidance (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).

4.2.

The DMG – Housing in the Countryside following publication of National Planning Framework 4 (NPF4) is attached as Appendix 1 to this report.

5. 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.

6. 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.

7. 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.

8. 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.

9. 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.

10. Legal Aspects

10.1.

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.

10.2.

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.

11. Contact Officers

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12. Appendix

Appendix 1: DMG - Housing in the countryside following publication of National Planning Framework 4.

Appendix 1.

Development Management Guidance (DMG).

Housing in the Countryside DMG following publication of National Planning Framework (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 Planner's 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 in most cases 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. The consequence of this is that, with this incompatibility between NPF4 and the OLDP 2017, then policy support for Single House In-Fill

Development within Existing Housing Groups Policy 5E (vi) of the Orkney Local Development Plan 2017 (OLDP2017) can no longer be made. Legislation states that whichever is the later in date is to prevail where there is incompatibility between NPF4 and the OLDP2017.

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).

NPF4 Policy 17 Rural Homes.	Policy 5 – Housing, Section E OLDP 2017 and associated Supplementary Guidance: Housing in the Countryside.
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.
No specific NPF4 support in Rural Homes Policy 17 for infill in existing housing groups.	Single House In-Fill Development within Existing Housing Groups Policy 5E (vi).

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 support.

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, with the exception for the support for Single House in-fill development within existing housing groups.