

Neighbourhood Planning Guidance Note

Material weight of Neighbourhood Development Plans



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Material weight of Neighbourhood Development Plans.

Whilst you are producing your Neighbourhood Development Plan, planning applications will continue to be made and they will need to be determined. This guidance note is to assist your understanding of the material weight which can be attributed to your plan within the 'planning balance'.

Planning applications are decided in accordance with the development plan, unless material considerations indicate others. The decision maker (either the development management officer or the planning committee) determines what constitutes a material consideration and the weight to give it.

The development plan for Herefordshire is currently the *Herefordshire Local Plan – Core Strategy* (adopted in October 2015), the *Travellers Sites Development Plan Document (DPD)* (adopted in October 2019) and all *made/adopted Neighbourhood Plans*.

Prior to the final adoption/making of an NDP, the emerging plan is likely to be a material consideration and the weight of these plans will be determined in light of the legal advice received and the National Planning Policy Framework (NPPF).

The National Planning Policy Framework (para 48) indicates that the Local Planning Authority (LPA) may give weight to relevant policies in emerging plans according to:

- a) The stage the preparation of the emerging plan;
- b) The extent to which there are unresolved objections;
- c) The degree of consistence of relevant policies in the emerging plan to the NPPF.

The table below highlights the material weight which could be attributed to each stage of your neighbourhood plan.

Stage	Material Weight
Area designation to Reg14 consultation	No weight at this stage.
Reg 14 Draft Plan	Limited weight – this consultation is undertaken by the parish council and the LPA do not see the extent of any resolved objections and a judgement is made as to whether the NDP is in conformity with the Core Strategy and national policy.
Reg 16 Submission (post 6 weeks consultation)	Limited to moderate weight – all representations at this stage will be received by the LPA and therefore a judgement can be made about the level of resolved objections. Consultation Statements will also be available to assess the level of support. Legal compliance and conformity with national policy can also be established at this stage. Policies and proposals with no or minor objections can be given more weight.
Examiner's Report	Significant weight – At this stage the examiner would have tested the plan against the basic conditions and all the unresolved objections would have been subject to the examination process.
Referendum	Full weight - In accordance with the regulations once the referendum results are announced the plan will have full weight prior to the formal made/ adoption process. The plan should be seen as part of the development plan prior to the formal decision to make.
Adoption	Full weight and part of the Development Plan.

Refusing planning permission on the grounds of prematurity.

The refusal of planning permission on the grounds of prematurity are unlikely to be justified other than in limited circumstances.

- a) The development proposal is so substantial, or its cumulative effect would be so significant, that to grant planning permission would undermine the plan making process by predetermining decisions about the scale, location or phasing of new development that are central to the emerging plan.
- b) The emerging plan is at an advance stage but is not yet formally part of the development plan.

The refusal of planning permission on the grounds of prematurity will seldom be justified where the NDP has yet to reach the end of the Regulation 16 submission stage.

Neighbourhood Plans adopted over two years ago.

It is clear within the National Planning Policy Framework that where a planning application conflicts with an up to date development plan permission should not usually be granted. In Local Planning Authority areas that can not demonstrate a five year land supply, the housing supply policies of a development plan are deemed as 'out of date'. However, para 14 gives protection to neighbourhood plans in the following circumstances:

- Where a neighbourhood plan has been part of the development plan for 2 years or less;
- It contains policies and allocations to meet its identified housing requirements;
- The local planning authority has at least a 3 year supply of deliverable housing sites; and
- The local planning authority has delivered at least 45% of their housing requirement over previous 3 years.

It is acknowledged that many parishes will be concerned about the implications of this national planning criteria and it is important to remember that adopted (made) Neighbourhood Plans, even if they have been adopted for longer than 2 years, will still have significant weight in the planning balance. Therefore this does not render the whole of the neighbourhood plan out of date.

Applying material weight to the update of the Core Strategy.

The Core Strategy may be changing over the next few years and it's important to understand how this will affect your neighbourhood plan and the material weight that can be attributed to the emerging Core Strategy.

The existing Core Strategy, adopted in October 2015, will remain as the development plan during the update process and until the revised Core Strategy is adopted.

The table below indicates the material weight which could be attributed to the emerging Core Strategy during its production.

Stage	Material Weight
Issues and Options	No weight - at this stage there are no proposals simply 'options' or 'reasonable alternatives' there is no council approval of any other than an approval to consult.

Stage	Material Weight
Draft Plan (for consultation)	<p>Limited weight - but only after consultation. A draft plan will contain policies and proposals but will have been published for consultation purposes and not have been approved by the Council. After consultation there will be an assessment of which policies have/have not been subject to objection, therefore those which have not been subject to objection may carry some weight.</p>
Pre-submission publication	<p>As with the draft plan stage above, consideration of the weight that should be applied should only take place once the publication (consultation) period has ended and it is known which policies/proposals have been subject to objection.</p> <p>At this point Full Council will have 'approved' the document to advance to the formal stage of preparation including submission to the Secretary of State and Examination in Public (EIP).</p> <p>However, it will still be subject to a formal stage of publication prior to submission and for those policies where objections in principle have been received, there will be an expectation that the Inspector will consider the comments at EIP. Therefore, only very limited weight could be given in these circumstances.</p> <p>If there are policies/proposals with no objections (or possible minor objections of detail) more significant weight could be given to these where they clearly accord with national planning policy.</p>
Main Modifications	<p>At this stage the Inspector will have considered the plan and identified where changes should be made through the inclusion of Main Modifications. Therefore, significant weight could be given to the modified policies and proposals at this stage (with the caveat that these will be subject to public consultation and could attract further objections which will be considered by the Inspector).</p>
Inspector's report	<p>Once the Inspector's report is published the plan as recommended for amendments by the Inspector should carry very significant weight. The Council still need to formally adopt and could decide not to adopt (in which case the EIP would need to be re-run and the plan changed and subjected to a further consultation) but the Inspector's report itself will constitute a significant material consideration in decision making.</p>
Adoption	<p>Full weight and part of the development plan.</p>

Relationship between the Core Strategy and Neighbourhood Plans

Where a policy within the development plan conflicts with another policy, the conflict must be resolved in favour of the policy within the latest document to be adopted, approved or published.