

9 September 2024

Dear Sir/Madam,

RE: Open consultation: Proposed reforms to the National Planning Policy Framework and other changes to the planning system

Please, see Spelthorne Borough Council's ('the Council') formal response to the Ministry of Housing, Communities and Local Government's open consultation on the proposals of reforming the National Planning Policy Framework and other changes to the planning system below.

Planning for the homes we need

The proposed amendments to paragraphs 1 and 60 make clear that plans should provide for an area's entire housing need. This provides a higher level of certainty for Local Planning Authorities, developers, and other stakeholders in terms of the amount of housing to be planned for. Whilst increased certainty is a positive, the logic underpinning this focus of providing additional housing is muddled. It should be made clear that the purpose of the planning system is to achieve sustainable development. Increased housing targets do not necessarily translate to more sustainable development or increased housing delivery, and even so, increased housing delivery only seeks to address the supply aspect of the housing crisis whilst making little effort to combat the affordability and quality dimensions¹. The Government need to address the disconnect between the incentives of the consent-granting planning authorities to address the housing requirements vis-à-vis the incentives for developers to maximise profits.

Urban uplift

Without knowing the full details of the proposed universal strategic planning model covering functional economic areas, it is difficult for Spelthorne to provide feedback on this. Unless the proposed growth distribution across urban areas takes into account local considerations, the proposed approach risks putting very heavily constrained areas which are already seeking to meet their need calculated using the standard method in full (such as Spelthorne) under significant pressure from speculative development and harmful green belt intrusion.

Design codes

The Council welcomes the strong emphasis being placed on Design Codes as a way of ensuring high quality development. Furthermore, the direction of travel indicated by the consultation, which moves the emphasis away from authority-wide coding as identified in the LURA, towards a focus on areas of growth and opportunity is positive. It is considered that this

¹ Our shared future: A TCPA White Paper for Homes and Communities (January 2024) (available at: [TCPA-White-Paper-OUR-SHARED-FUTURE_160124.pdf](#))

more specific focus on areas of change will go some way towards addressing a number of concerns both in terms of the capacity and expertise within LPA teams to deliver Design Codes and the need for codes to be clear, concise and specific to allow for effective implementation. This Council is currently developing its own Design Code following the principles of the National Model Design Code.

The definition of sustainable development is vague and lacks a clear definition. A much more robust and descriptive definition of sustainable development would help with the creation of prescriptive Design Code requirements to ensure that development on Green Belt and grey belt sites is made sustainable and is of high design quality.

Character and density

The density of development and local character are key considerations in place-making. Development out of keeping with its surroundings are especially likely to attract objections from residents. Whilst it is acknowledged there is a need to more efficiently utilise land, we believe this must be done without abandoning the requirement for development to be in keeping with its locality.

Building a modern economy

The Council supports the ambition to help drive a modernised economy by emphasising the importance of laboratories, battery cell manufacturing plants (commonly known as 'gigafactories'), digital infrastructure, and freight and logistics. The proposed updates to existing paragraphs 86b and 87 of the existing NPPF would result in a need for strategic plans to identify the needs of a modern economy. This is generally a sensible proposal, but further emphasis must be placed on how this type of development can be accommodated without causing undue harm to the environment and wildlife, heritage, landscape, the amenity of residents, the highway network or any other material planning considerations. It is important that these types of developments are directed in the right locations to ensure their negative impacts are minimised.

Laboratories and digital infrastructure such as data centres require large amounts of power to operate. Planning policy should be strengthened to ensure that any new development should be net zero emission and apply the principles of the three R's for environmental sustainability, namely: reduce, reuse, and recycle. High-standard buildings can help reduce power requirements, and by-products such as heat generated by data centres should, where possible, be reused (i.e. for heating on-site or elsewhere).

Restoring the 5-year Housing Land Supply (5YHLS)

It is agreed that requiring the demonstration of 5 years of housing supply even with an adopted local plan would present a more accurate figure of deliverable sites. A local plan does not respond to shifts in markets and trends that may occur during its 10–15-year lifespan. This proposal would, however, put a very considerable strain on local planning authorities that

already struggle with under resourcing. This has to be recognised with additional funding to ensure delivery.

Maintaining effective co-operation and the move to strategic planning

The proposed short-term approach of 'sharing' unmet development needs with neighbouring planning authorities runs a risk of functioning on a different spatial level than development itself; for instance, two neighbouring authorities can be part of two or more separate Housing Market Areas or Functional Economic Market Areas. The right development needs to happen in the right place.

Planning on a higher strategic tier would be welcomed by the Council. In two-tier areas there is limited alignment between local plans, and it is hoped that these proposals will help align local plans with each other as well as with Local Nature Recovery Strategies and Local Transport Plans. This will lead to more efficient planning which will translate into better outcomes for the residents of both our borough and the wider area. Consideration should be given to opportunities for sharing unmet need across wider geographical areas (sub-regional) so that areas that want to grow can be allowed to do so. It is acknowledged that the geographic division of this new strategic tier of planning will function on is not yet known, nor is the character of the Spatial Development Strategies covering non-mayoral areas. The Council would be grateful to receive clarification on this as soon as reasonably practicable.

A new Standard Method for assessing housing needs

It is agreed that using population growth projections from 2014 to plan in 2024 is not a sound approach. This does not, however, mean that planning for development in proportion to the projected growth of the population is a fundamentally unsound approach. Rather, instead of locking in the 2014 projections for all plans there should be a requirement for plans to utilise the most up to date projections at the point of submission of the plan for examination. By using the proposed housing stock-derived method there is a risk of putting the cart before the horse. It is seemingly based on an assumption that all parts of the country are growing at the same pace relative to their size, whereas the reality is different parts of the country grow at different paces.

This stock-derived method and the proposed increased affordability uplift would result in a 20% increase compared to the currently calculated local housing need in the Spelthorne Local Plan. This results in a significant increase in housing in Spelthorne, which is a borough that is very highly constrained by both fluvial and groundwater flood risk, and Green Belt alike. This will pose an immense challenge for us, and we object to this approach. Rather, we would prefer to see a housing need calculation based on up-to-date growth projection data.

This proposed approach to adjusting for affordability would increase the housing requirements for less affordable areas, but the allocation of housing numbers from Local Planning Authorities does not necessarily lead to an increase in housing delivery. On average, 90,000 more permissions have been granted than houses have been delivered annually over the last

decade.² If this government is truly intending to combat the housing crisis it needs to create and support mechanisms for delivery.

The lack of affordable homes is not solely caused by an imbalance between supply and demand for new homes. There is also a decades long trend of not providing enough socially rented (i.e. truly affordable housing where rent is based on local incomes) to support our population.

Brownfield, grey belt and the Green Belt

The proposed changes set out in paragraph 124c as a first step towards brownfield passports provides a strong policy base for stakeholders that brownfield sites are able to be developed that this should be the starting point before considering other sites that may be less appropriate, including green belt sites.

The proposed amendments to paragraph 154g of the current NPPF would provide clarity on a policy basis that it is necessary to demonstrate 'substantial' harm in order to resist harmful development on PDL.

The Council suggests adding policy wording to prevent the deliberate ruination of land over a period of time to meet the PDL definition.

The definition of grey belt land as set out in the glossary should separate out the 'other parcels of land' aspect to prevent the deliberate degradation of land. The definition in regard to PDL is supported.

The proposed guidance relating to appropriate considerations for determining whether land makes a limited contribution to Green Belt purposes does not set out appropriate and clearly defined considerations, rendering the document being used as a 'free-for-all'.

The role of Local Nature Recovery Strategies in identifying areas of the Green Belt to be enhanced

The Local Nature Recovery Strategy is a spatial strategy with the aim to enhance and improve nature whilst providing other environmental benefits. These are positive and collaborative strategies in that they allow for multiple bodies to identify particular areas within their boroughs that could also enhance areas of nature including on Green Belt land. The preparation of this strategy could be used to agree priorities for nature's recovery in the borough, including on Green Belt land to ensure that the most valuable areas are protected and that the areas that are of lower value but of potential nature recovery can be enhanced and retained. The strategies would play a vital role, as Local Planning Authorities could use this to map out areas which could be used to enhance valuable habitat and biodiversity within Green Belt sites, which would also be beneficial for Biodiversity Net Gain for future applications. Local Planning Authorities

² Our shared future: A TCPA White Paper for Homes and Communities (January 2024) (available at: [TCPA-White-Paper-OUR-SHARED-FUTURE_160124.pdf](#))

can certainly aid in identifying these areas with a greater objective to help restore and preserve our Green Belt, and more precisely assist with biodiversity conservation, habitat restoration, climate regulation, and maintaining public access to high quality green open space. This all contributes to the overall aim of protecting Green Belt land.

Green Belt release

The proposed approach to Green Belt release that is strategic in scope in favour of the current approach of Green Belt release in cases of “exceptional circumstances” would be welcomed. This pragmatic approach would provide more certainty to stakeholders and would ensure that focus is on the functional performance of the Green Belt, rather than the legacy designation of the Green Belt which has since changed form but has not undergone strategic review. The Council expects that this will be conducted through the proposed new strategic planning tier, however, from the information presented this is not entirely clear. The Council would be grateful to receive clarification on how this is expected to function as soon as reasonably practicable.

Whilst the prioritisation of Previously Developed Land (PDL) in the Green Belt (or ‘grey belt’ land) is seemingly a sound policy, it is blind to those sites PDL sites that are making a robust contribution to the five purposes of the Green Belt. These sites would still benefit from the protections afforded them in paragraphs 154c, 154d and 154g of the current NPPF. For instance, a car park in the Green Belt would still preserve a degree of openness that other development might not. For these reasons it is considered that the land’s contribution towards the five purposes should be the primary consideration, and the land’s brownfield status should be secondary to this.

The assumption that all previously developed land in the Green Belt is located in sustainable locations is inaccurate. With the proposed prioritisation of PDL in the Green Belt there is a risk non-sustainable development will have to be approved. It is not clear if the LPA or the developers will be required to make these sites sustainable, nor where the funding for this would come from.

Golden rules to ensure public benefit

The proposed golden rules to ensure public benefit are welcomed. The Council would welcome even stronger wording around the provision of Social Rent as a proportion of the affordable housing to be delivered. Within Spelthorne, affordable is simply not affordable for the majority of our residents. As proposed, “an appropriate proportion” does not clearly set out what should be required. More robust and specific wording would be helpful to Local Planning Authorities in consenting socially rented dwellings which in turn will help alleviate the housing crisis.

The proposal to secure benefits for nature and public access to green space in cases of Green Belt development is generally supported. It is, however, not clear why these requirements should not apply to all development proposals for housing. Improved access to green space is not only a concern in the Green Belt, but also in other areas too.

Delivering affordable housing

The proposal to require housing needs assessments to consider Social Rent needs is strongly supported. There is a severe shortage of genuinely affordable housing options in Spelthorne, and this is one of the main drivers of the housing crisis.

The definition of affordable housing as being housing that is at least 20% below market rent is not feasible in the South of England. With the inflated housing market prices, 20% can not be considered genuinely affordable. This should be redefined to consider providing a realistic rental level for high rent areas or the Government needs to provide funding to cover the disparity in what those in need can actually afford.

It is not clear from what has been presented what the policy promoting developments that have a mix of tenures and types would entail. As such, we cannot comment on this proposal.

The proposed amendment to paragraph 115 uses the term 'Significant amounts of movement'. This is a vague term. Travel Plans have not evolved since their introduction and rarely offer tangible benefits to modal choice. The cost of producing, reviewing and monitoring these could be better spent on the provision or the subsidising of local services.

The removal of the requirement to deliver 10% of housing on major sites as affordable home ownership is supported by the Council. Affordable home ownership is preferred by the industry because of financing arrangements, but it does not help the people that are most in need.

Changes to planning application fees

Planning application fees only cover part of the cost of the Planning Development Management Service. The proposed increase of the householder planning applications by £270 is to be welcomed to assist in cost recovery of the service.

The time and costs associated with dealing with s.73 applications and other amendment applications can be considerable, particularly on major applications. The current fee is inadequate, and we would suggest consideration be given to a proportionate approach that recognises this, and that a fee can be levied as a percentage of the original application fee as opposed to a flat rate fee. A similar approach should be adopted for all amendment applications.

Change of use applications can also be complex and the current flat rate fee does not reflect this. Thought should be given to a graded approach.

Prior approval applications attract a flat rate. These can also be complex, and the current flat rate fee does not reflect this. Thought should be given to a graded approach.

Outline applications often come with full details and most of the technical reports required. Often, the only reason the applications have been submitted in outline is because of the fee

differential and frequently only landscaping is reserved. This is being used as a loophole to save on planning fees. There are several problems with this approach: the application fee can be, for example £5,000 for an outline application whereas a detailed application for the same scheme could be £35,000. The documents with an outline application can be quite complex and often specialist advice is needed for which the Council needs to pay. If there is an appeal, the cost and work involved dwarfs the application fee. A possible mechanism to deal with this is to adjust fees for Outline and reserved matters applications. If outline fees were set at 80% of full fees, and reserved matters set at 40% of full fees, then the submission of outline applications would be significantly discouraged in favour of more detailed schemes, particularly on things like blocks of flats or smaller major applications. The fee saving from the current practice of submitting detailed outlines rather than full applications would be negligible, so outlines would only be submitted where they were genuinely required or on larger schemes.

For Discharge of condition applications, a fee per condition, not per application, should be imposed. For Certificates of existing lawfulness, the existing fee should be doubled, as these take up a lot of officer time and can be quite complex. For applications for listed building consent and for tree preservation area works applications there is no fee, but the assessment required by the LPA is highly technical and consultant advice is required.

We would support local planning authorities setting their own planning fees. Our preferred model for localisation of planning fees is Local Variation; maintaining a nationally set default fee and giving local planning authorities (LPAs) the option to set all or some of their fees locally. This would set a national minimum fee to aid transparency and will enable LPAs to justify an increase above the default fee.

It is considered that planning fees should be increased beyond recovery to assist in supporting the cost of planning enforcement. This service is crucial to the integrity of planning but receives very little income, except fees associated with retrospective planning applications. The previous government mooted a proposal for retrospective planning applications to be doubled but this was never carried forward. This was a positive proposal and should be re-considered. The additional fees beyond recovery should also assist Environmental Health teams who are important consultees on several aspects of planning (e.g., contamination and air quality) but do not receive a fee income for this work.

Officers spend time on preparing for, and attending court cases, especially on planning enforcement. When presenting fees to the court, they are charged by the hour based on the officer's salary. However, this does not cover the on-costs associated with each officer and should be based on a default fee with the ability to increase locally.

Officers have been dealing with a large DCO proposal in the borough, (The River Thames scheme). This has taken up a huge amount of officer time, but we will not receive a planning application fee when it is submitted early 2025. The main work has been undertaken by the Development Management officers but several officers from other services within the Council have spent and are continuing to spend time on this proposal. These officers should be able to charge an hourly time fee.

The future of planning policy and plan making

It is proposed that the gap between the Local Housing Need (LHN) figure and the emerging housing requirement is too big for a plan to continue with examination if it exceeds 200 dwellings per annum. Consideration should instead be given to have a figure derived as a proportion of the LHN figure. The strict 200 dwellings per annum limit will be proportionally more onerous to planning authorities with a higher LHN figure. The additional time for submission of plans to be examined under the 2004 Act system is welcomed.

Omissions from the NPPF

Spelthorne has a particular challenge with ground water flooding which affects residents during even low-level flooding events. Shallow aquifers are particularly susceptible to exacerbate groundwater flooding, especially in instances where new building foundations and basements displace the groundwater within the aquifers. In instances where groundwater flooding is prevalent, it is important to consider the impact of the redirecting of surface water into the ground by Sustainable Drainage Systems, as this could potentially aggravate the groundwater flooding issue. Instead, consideration should be given to how surface water can be stored or be allowed to evaporate away. These issues around groundwater flooding are not issues unique to our borough, and they are likely to increase in severity due to climate change and the increased frequency of flooding. The NPPF needs to address these matters with some clear, definitive guidance on how this should be dealt with when developing Local Plans. A national development management policy on the matter would be most helpful.

Yours sincerely,

Martin Horn - Senior Planning Officer (Strategic Planning)
On behalf of Spelthorne Borough Council