

**Appendix A - Elmbridge Borough Council's response to the draft revised National Planning Policy Framework (NPPF) (March 2018) Consultation Planning Service ICMDM – 27 April 2018**

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**Chapter 1: Introduction**

**Q1 Do you have any comments on the text of Chapter 1?**

The Council has no specific comments to make in relation to Chapter 1.

**Chapter 2: Achieving sustainable development**

**Q2 Do you agree with the changes to the sustainable development objectives and the presumption in favour of sustainable development?**

Sustainability Objectives

The Council supports the objective of sustainable development as set out in paragraph 7 of the draft NPPF. The Council also supports the proposed changes to paragraphs 8 – 10 that provide clarification that the three sustainability objectives (economic, social and environmental) are 'to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across the different objectives)'.

Presumption in favour of sustainable development

In terms of the proposed changes to the 'presumption in favour of sustainable development', the reordering of paragraph 11 to reflect the way that plan and decision making are approached in practice is considered a sensible change. In addition, the proposed change to the decision making part of the presumption so that it refers to circumstances where 'there are no relevant development policies, or the policies most important to determining the applications are out of date', and to 'refusing' rather than 'restructuring' development are supported for the purpose of clarity.

It is noted that a further change relates to the policies which provide a specific reason for refusing proposed development (footnote 7). The footnote refers to a specific list of policies within the draft NPPF, whilst the current NPPF provides examples of policies that indicate that development should be restricted. Furthermore, footnote 7 makes it explicit that it is referring to policies in the draft NPPF and it not referring to policies in the development plan. Although it is understood that the Government is seeking to provide clarity, and avoid confusion, in relation to the application of the presumption in favour of sustainable development, the proposed change undermines instances where there may be particular local

circumstances that would justify refusing planning permission for a proposed development.

### Meeting housing need

The draft revisions seek that, as a minimum, strategic and local plans should provide for objectively assessed needs for housing and other development, as well as any that cannot be met within neighbouring area. Whilst paragraphs 11b(i) and 11b(ii) set out circumstances where meeting development needs may not be practical, paragraph 11 as a whole is more in tune with the overall sentiment of the draft NPPF. That is, the clear dominance of the Government's housing agenda.

The Council objects to the Government's position on two key grounds. Firstly, that the Standard Methodology that the Government is imposing on local authorities is not a sound basis to assess housing need. By no means is it an 'objective' assessment. Secondly, paragraph 11 continues to give insufficient weight to local circumstances that prevent development need from being met. These appear as an after-thought in the process.

Finally, the Council would welcome further clarification and guidance from the Government on the matter of unmet development needs when determining its housing requirement (target).

### Housing Delivery Test

The Council raises strong concern over the Housing Delivery Test as a monitoring tool for which the Local Planning Authority has limited control and modest influence on performance. The presumption in favour of sustainable development will unfairly penalise local authorities in areas, such as Elmbridge, where the identified need figure is significantly higher (and continues to rise through the standard methodology) than previous targets and where the availability of deliverable land is limited. The Council has been working hard to respond positively to the housing crisis and is progressing its Local Plan accordingly; however, these positive actions will not be recognised in the mechanisms such as the Housing Delivery Test.

### **Q3 Do you agree that the core principles section should be deleted, given its content has been retained and moved to other appropriate parts of the Framework?**

The Council does not agree.

The 'core principles' section in the existing NPPF is an important and useful reference point for both plan-makers and decision-takers and should be retained. The revised structure and the integration of the core principles into the relevant topic-

based chapters showing how each is to be achieved through the policies is useful. However, an unintended consequence of this proposal is that the principles may not be used as often as they currently are particularly in terms of decision-making.

**Q4 Do you have any other comments on the text of Chapter 2, including the approach to providing additional certainty for neighbourhood plans in some circumstances?**

The Council has no comments regarding neighbourhood plans.

**Chapter 3: Plan- making**

**Q5 Do you agree with the further changes proposed to the tests of soundness, and to the other changes of policy in this chapter that have not already been consulted on?**

Following the Council's response to the Government's 'Planning for the right homes in the right places consultation' (September 2017), concern remains as to the continued merging of terms within Chapter 2 and throughout the draft NPPF in general. The Government has made clear that the basis for any housing target set within a Local Plan is the Standardised Methodology (SM). This is not considered to be an objective assessment for housing need but rather a crude assessment of population projections with an up-lift based on seeking to address affordability issues.

With this in mind, the Council maintains a strong objection to developing a Local Plan and future spatial / growth strategy based purely on an overly simplified process of establishing a housing target as prescribed by the SM. The Council therefore wishes to raise a strong objection as to the level of weight being placed upon the plan's ability to meet the 'objectively assessed housing need' for it to be considered positively prepared and ultimately (notwithstanding, satisfying the remaining tests) sound.

The Council is striving to achieve a Local Plan that positively contributes towards the resolution of the national housing crisis and the need to address affordability issues. This however, needs to be balanced against the overarching concept of sustainable development; taking account of important issues such as land-designations and constraints to meeting our development needs in full including for example, Green Belt.

Despite this, evidence is indicating that there will be unmet housing need and hence the Council is working closely with its Housing Market Area (HMA) partners, many who are neighbouring authorities, to seek agreements to accommodate this unmet need beyond our own administrative boundaries. However, these authorities also share in this significant challenge of meeting housing need with a constrained land

supply. There is a real risk that the issue of unmet need will not be addressed or accommodated beyond the boundary of our Local Plan and that of our HMA partners / neighbouring authorities, as it will not be practical to do so and would not be consistent with achieving sustainable development. No Statement of Common Ground will resolve this matter.

The draft revisions do not appear to lend themselves to such a situation occurring. Therefore, the Council seeks assurances that a pragmatic approach would be taken in such instances and that the importance of securing an up to date Local Plan and the benefits of doing so will be fairly balanced against the Government's desire to deliver new homes.

#### **Q6 Do you have any other comments on the text of Chapter 3?**

Paragraph 15 states, amongst other things, that the planning system should be genuinely plan-led. There are other references within the draft NPPF to the importance of the plan-led system. However, the Council considers that the proposed changes to the NPPF, and the associated Planning Practice Guidance, especially in respect of the requirements relating to demonstrating a five year supply of deliverable housing sites and the Housing Delivery Test will result in an increased number of planning applications being determined against part (d) of the presumption in favour of sustainable development set out in paragraph 11 of the draft NPPF. Consequently, the proposed changes to the NPPF will significantly undermine the plan-led system.

The Council considers the expectation in paragraph 21 that strategic policies should be distinguished clearly in plans is sensible. Such an approach will help to provide clarity regarding the scope for local policies. It is for this reason that the Council also believes that the setting out of the Core Principles should also remain within the NPPF (see the Council's response to Question 3).

The Council also welcomes revisions which amplify the importance of collaboration and cooperation within the plan-making process.

#### **Chapter 4: Decision-making**

##### **Q7 The revised draft Framework expects all viability assessments to be made publicly available. Are there any circumstances where this would be problematic?**

The Council fully endorses that viability assessments should be publicly available and cannot foresee any circumstance where this would be problematic. Supporting the approach set out in text in the draft Planning Practice Guidance, the Council agrees that circumstances where it is deemed that specific details of an assessment

should be redacted or withheld should be clearly set out to the satisfaction of the decision maker.

Taking a proactive response to these proposals the Council is now publishing viability assessments on its website.

**Q8 Would it be helpful for national planning guidance to go further and set out the circumstances in which viability assessment to accompany planning applications would be acceptable?**

Although it is acknowledged that the draft Planning Practice Guidance provides some illustrative examples of circumstances which plan-makers could identify as requiring viability assessments at the decision-making stage, it is considered that such circumstances must be truly exceptional and would therefore welcome the Government's thoughts on such circumstances. The Government should however, allow local authorities flexibility to then make local decisions on this.

In finalising national planning policy and revising the national planning guidance, the Council asks that Government take on board the circumstances where not requiring a viability assessment for applications may cause problems at a later stage. For example, following the granting of permission a developer may submit a viability assessment to argue that the agreed level of affordable housing cannot be provided. Such an approach could be construed as 'gaming the system' and undermining its integrity.

It would therefore be helpful if the guidance could make clear that decision-makers are under no obligation to reconsider viability in such circumstances, although it could be done so voluntarily.

Finally, the Council considers that circumstances of significant market change should include both up and down turns in market conditions. Consequently, improved market conditions should trigger viability testing for increased developer contributions. The Council also considers that inclusion of such circumstances within the guidance would limit the risk of misinterpretation during S78 appeals.

**Q9 What would be the benefits of going further and mandating the use of review mechanisms to capture increases in the value of a large or multi-phased development?**

The Council considers that there would be significant benefits of mandating review mechanisms. This would allow for the collection of valuable contributions that could be used to deliver much needed affordable homes that might otherwise been lost. In addition, the proposed initiative would act as an incentive to keep to development timescale.

## **Q10 Do you have any comments on the text of Chapter 4?**

The Borough Council is supportive of the efforts to tighten the 'viability loophole' and shares the view that issues of viability should be the exception and not the norm. The Council welcomes a standardised and transparent approach and the inclusion of paragraph 42 of text to encourage early discussions about affordable housing requirements at pre-application stage. As set out in the draft Planning Practice Guidance, the Council is particularly supportive of the requirement for the land value to be realistic based on the existing land use and not the price paid for the land which is frequently over-inflated and does not consider certain policy requirements such as affordable housing contributions.

## **Chapter 5: Delivering a wide choice of high quality homes**

### **Q11 What are your views on the most appropriate combination of policy requirements to ensure that a suitable proportion of land for homes comes forward as small or medium sized sites.**

The Borough Council welcomes the continued encouragement of small and medium sized sites. Reflecting local circumstances, the Council has historically acknowledged the valuable contribution small and medium sites make to housing delivery in its own housing trajectories and has continued to argue for the inclusion of a windfall element on this basis.

It should be noted that past delivery has shown that small sites have formed a significant proportion of development in the Borough and contribute significantly to both market and affordable housing provision. Indeed, approximately 80% of planning permission for new homes in the Borough is from the small sites (1-10 dwellings).

The Council however, considers that the proposed policy approach in relation to small sites needs to have sufficient flexibility to reflect local circumstances and land supply. It should be within the gift of the local planning authorities to determine their appropriate strategy / targets for delivering on small and medium sites that reflect local circumstances and based on sound local evidence. Nationally prescribed requirements in terms of size thresholds and proportion of allocations / housing delivery may unfairly penalise some authorities, as the targets will not be compatible with local circumstances. One size does not fit all. Such an inflexible approach would inevitably impact on optimal delivery from this source of land supply.

### **Q12 Do you agree with the application of the presumption in favour of sustainable development where delivery is below 75% of the housing required from 2020?**

Section 5 of the draft NPPF establishes the principle of the Housing Delivery Test (HDT). The Council is committed to the delivery of new homes but strongly disagrees with the introduction of the HDT in its current format. For most areas, the delivery of housing is in the hands of the commercial development industry and not the local authority. The proposals place an inequitable accountability for the delivery of new homes on local planning authorities. Local authorities have limited tools to influence the delivery of new homes once permission is granted but are to be penalised for under delivery through the test.

The application of the presumption in favour of sustainable development when delivery falls to 75% of the target rate is not a proportionate response to a situation that is often out of the control of a local planning authority. In addition, the suggestion that the New Homes Bonus could be linked to the HDT resulted is counterproductive. Councils who are not managing to meet their targets need additional support and resources to help deliver new homes. Removing finances will therefore restrict further their ability to influence the delivery of homes to meet the target.

It is accepted that it is good practice to produce an annual action plan to identify barriers to housing delivery and suggested actions to remove these barriers.

**Q13 Do you agree with the new policy on exception sites for entry-level homes?**

The Council consider that more detail is needed in this policy, set out in paragraph 72. On suitable sites, the Council would support exception sites which bring forward a significant number of affordable rented / social rented homes, the need for which is demonstrated in our Strategic Housing Market Assessment (SHMA). The Council would not however support 'starter homes exception sites' at the expense of affordable and social rented housing. This may lead to a reduction in supply of the tenure of housing which is truly affordable for local households on low incomes. Furthermore, it would not result in an overall net increase in supply. Even entry-level affordable homes in a high value area such as Elmbridge are unaffordable for the majority of households on the Council's Housing Needs Register and only a small proportion of households qualify for shared ownership.

Furthermore, in Elmbridge, the location of such sites (outside of the settlement area) would ultimately be within the Green Belt and therefore likely to conflict with principles of Green Belt land. The Council objects to this proposal as it weakens the protection of Green Belt land.

**Q14 Do you have any other comments on the text of Chapter 5?**

Affordable housing provision on small sites

The Council is extremely disappointed that the draft revisions preclude local authorities from applying affordable housing policies to small sites (less than 10 units). The Council's current policy is to require a contribution towards affordable housing from all developments where there is a net increase in dwellings. The amount required and whether this is on-site or via a financial contribution is dependent on the number of homes proposed.

The need for increased provision of affordable homes within Elmbridge Borough is significant. Whilst high house prices and subsequent affordability issues are not particularly unique when it comes to the area; with South East boroughs now becoming 'unaffordable' to the first-time buyer, the average house price in Elmbridge is over £700,000. Outside of London, Elmbridge is the most difficult place in the county to get a step on the housing ladder where average wages, house prices and limited ability to save for a deposit collide to price out would-be homeowners.

Seeking to tackle these challenges the Council, taking account of development viability, has always sought to maximise affordable housing provision. However, its efforts were hampered by the Government in the form of the Written Ministerial Statement (WMS) that was laid before the House of Commons on 28 November 2014. As such the Council's current Core Strategy is now in conflict with Government policy as set out in the WMS. Following Counsel advice, the Council has however continued to seek affordable housing contributions on small sites considering, on an application by application basis, whether there are sufficient local circumstances to allow the continued implementation of Policy CS21. This has included for example, the high level of need for affordable homes; high average house prices; and that the type development sites available within Elmbridge Borough are predominately under 10 units.

The approach is supported by various statements written by the Council and has largely been supported on appeal by the Planning Inspectorate with a continued positive trend in decisions. The Council is extremely concerned that the proposed changes to the NPPF will reserve this trend and will also negatively impact upon its future plan-preparation in terms of its affordable housing policies.

The Council is therefore seeking a change to the draft NPPF. Paragraph 64 should be amended to recognise local circumstances where it would be appropriate for some local authorities to require contributions from small sites. The Council would advocate the following wording:

***“Unless outweighed by local circumstances, provision of affordable housing should not be sought for development that is not on major sites...”***

This would allow local authorities to consider their local circumstances more freely and weigh these against the draft NPPF and viability considerations. Such an



approach would also be consistent with other policies within the proposed draft Framework. For example paragraph 20, which states that local authorities should seek to provide the homes needed, including affordable housing.

On the issue of affordable housing provision, the Council also believes that the Government should take the opportunity to revoke (or substantially mitigate the adverse impacts of) the Vacant Building Credit (VBC) as it potentially can have a significant impact on the delivery of affordable housing, even where it might be viable for greater numbers to be delivered. The Council understands that a key aim of the planning system is to support regeneration and make the most efficient use of land, especially brownfield land, and that vacant buildings should be brought back into use or redeveloped. However, the Council views VBC as a crude means of doing this. The Council's view is that affordable housing is being disproportionately penalised by being removed as a requirement where vacant dwellings are being brought back into use. We would like other planning benefits to also be considered as an alternative.

#### The definition of affordable housing

The amended definition of affordable housing reflects the Government's focus on delivering affordable home ownership products rather than support for the rental market. Such products will only be suitable for those able to secure mortgage finance. In contrast, the Council's own evidence (SHMA 2016) shows an acute need for affordable rental homes in the Borough and outlines the affordable needs of our residents by type. There is a real risk that a continued focus on affordable home ownership, a product preferred by developers, would severely limit the Council's ability to deliver the type of homes in greatest need. Local authorities should be given the flexibility to continue to set their own targets for all affordable tenures based on their local circumstances and evidence base.

The Council would welcome further guidance on the calculation of commuted sums, which would provide clarity to all parties from the outset.

#### Affordable housing targets

Paragraph 65 sets a minimum level of 10% of homes on new sites for affordable home ownership. The Council's concern about setting a minimum level of affordable home ownership is that this may not be in line with the local needs or affordability levels set out in the Strategic Housing Market Assessment (SHMA). Within Elmbridge, the most pressing need for affordable housing is for rented tenures (specifically social rent) and obviously, if priority through the planning system is given to affordable homeownership, then this could compromise the delivery of the homes which are in greatest need, particularly where viability might be constraining the overall proportion of affordable homes that schemes can support. Furthermore, being too prescriptive may be at odds with the aspirations of local groups, for

example Community Led Housing and Neighbourhood Planning groups. The Council believes authorities should be given the flexibility to set local targets and thus a 10% target for affordable home ownership should not be included.

As explained in the Council's comments on the Glossary (Q.43 below), some of the homeownership products now included within the draft affordable housing definition do not meet our expectations of what should constitute affordable housing, particularly those which cannot be secured as affordable in perpetuity. Local authorities should be allowed the flexibility to set their own targets for all affordable tenures.

### The Standardised Methodology

The Council would welcome clarity on what the Government would consider exceptional circumstances as to justify an alternative approach to the standard methodology. For example, the joint Kingston and North-East Surrey Strategic Housing Market Assessment (SHMA) published in 2016 incorporated current and future demographic trends, market signals and took into account the need for an uplift based on affordability.

In addition, and as set out in the Council's response to the Government's 'Planning for the right homes in the right places consultation', the SHMA identified the size, type and tenure of homes for different groups of the community. The Council's concern remains that there is absence within the Standard Methodology for providing a breakdown of the housing numbers. The consequence of this being a continued need for further evidence base work, further delaying the preparation of Local Plans coupled with additional expenditure for the local authority.

### Housing Land Supply Tests

The proposed 'tests' based on land supply and delivery will disadvantage authorities such as Elmbridge that have a strong record of past delivery (average 270 dwellings per annum above a target of 225 dwellings per annum) and are now faced with a significant uplift in their housing need figures (474 dwellings per annum (Strategic Housing Market Assessment) – 612 dwellings per annum (Standardised Methodology)) due to national changes in how that need is calculated.

The Council is also disappointed there has been softening in the Government's thinking with regards to ensuring that the industry plays its part in delivery, in fact there appears to be little consequence for its failure to deliver. This is particularly relevant to Elmbridge where over the last 5 years 10 – 15% of dwellings given planning permission have not been implemented by the development industry and where developers are 'land-banking', waiting for the market to improve and deliver increased levels of profit

In regard to paragraph 78 of the draft NPPF, the Council would welcome clarification from Government as to how it expects local planning authorities to enforce conditions placed upon developments in order to increase the rate of housing delivery.

## **Chapter 6: Building a strong, competitive economy**

### **Q15 Do you agree with the policy changes on supporting business growth and productivity, including the approach to accommodating local business and community needs in rural areas?**

The Council is supportive of the proposed changes that highlight the importance of supporting business growth.

### **Q16 Do you have any other comments on the text of chapter 6?**

The Council expects a greater focus on the importance of planning for and retaining jobs / employment opportunities in the right places. There is a risk that the housing dominant agenda could lead to dormitory towns especially in areas where housing need is greatest, and the land supply limited.

Within this context, the Council would also strongly urge the Government to reconsider its Permitted Development (PD) Rights that have resulted in office floorspace and retail units converted into residential units. Not only is this leading to less sustainable communities, centred on outward commuter patterns but, it also forfeits the Council the opportunity to provide more affordable housing units.

Lastly, the Council also believes that paragraph 82 should be strengthened by making reference to meeting affordable housing need as a critical factor which can support economic growth and productivity. Similarly, paragraph 84d could be improved by mentioning affordable housing as a specific community benefit and recommending that planning policies should enable the retention/development of this benefit.

## **Chapter 7: Ensuring the vitality of town centres**

### **Q17 Do you agree with the policy changes on planning for identified retail needs and considering planning applications for town centre uses?**

The Council considers the proposal for policies and site allocations for town centres to look at least ten years but not necessary over the full plan period is a sensible approach. However, it is important that this flexibility does not lead to the loss of commercial sites in sustainable locations in the long term, especially in areas where land for housing is in short supply.

**Q18 Do you have any other comments on the text of Chapter 7?**

The Council welcomes the increased flexibility offered as part of the proposed removal of a fixed time scale for considering the availability of alternative retail and leisure sites within the sequential approach.

The Council does not however, agree with the expectation that office developments over a certain floor space threshold outside of designated town centres are not subject to an impact assessment. The removal of a sequential approach could lead to office uses in less sustainable locations or on sites that would be better utilised by other forms of development, such as housing. Flexibility should be afforded to local authorities to determine, based on local circumstances / characteristics, when such assessments are / are not required.

**Chapter 8: Promoting healthy and safe communities**

**Q19 Do you have any comments on the new policies in Chapter 8 that have not already been consulted on?**

The Council supports the additional recognition of the role that planning can play in promoting social interaction and healthy lifestyles and fully endorses the new policy in relation to promote public safety.

**Q20 Do you have any other comments the text of Chapter 8?**

The Council has no further comments.

**Chapter 9: Promoting sustainable transport**

**Q21 Do you agree with the changes to the transport chapter that point to the way that all aspects of transport should be considered, both in planning for transport and assessing transport impacts?**

The Council agrees and notes the increased emphasis on the importance of sustainable modes of transport. It is also encouraged that the assessment of transport impact includes an emphasis on highway safety as well as capacity and congestion. There should however, be clear guidance on when capacity and the realistic prospect of securing adequate funding would constrain the delivery of sustainable housing growth. It is concerning that, as set out in paragraph 109, only a 'severe' road safety issue would be a reason for refusing a planning application. The approach suggests that a worsening of road safety would be an acceptable consequence of development, which should not be the case.

In regard to placing an increased emphasis on the importance of sustainable modes of transport, it is essential that the Government plays its role to deliver this policy objective. In areas such as Elmbridge, where many residents commute to London by

train, the network is already at capacity without an additional planned development proposed as part of our Local Plan. Local authorities have no control over train capacity and service frequency. It is therefore essential that it works with network and train operators to meet future demands is undertaken in order to facilitate growth and in considering all aspects of transport, boroughs such as Elmbridge should be able to consider strategic infrastructure (such as trains) capacity in planning for future housing growth.

The Council would welcome clarification as to paragraph 107, and what is meant by “maximum parking standards”. Currently, there is some confusion as to whether local authorities should be seeking to impose minimum or maximum parking standards.

Finally, the Council would also welcome the flexibility to determine what it considers to be ‘accessible’ in terms of public transport. It must be acknowledged that accessibility standards across local authority areas will vary as will the expectations of local communities.

**Q22 Do you agree with the policy change that recognises the importance of general aviation facilities?**

The Council has no further comments.

**Q23 Do you have any other comments on the text of Chapter 9?**

The Council has no further comments.

**Chapter 10: Supporting high quality communications**

**Q24 Do you have any comments on the text of Chapter 10?**

The Council welcomes the acknowledgement that reliable communications infrastructure is essential for social wellbeing as well as for economic growth.

**Chapter 11: Making effective use of land**

**Q25 Do you agree with the proposed approaches to under-utilised land, reallocating land for other uses and making it easier to convert land which is in existing use?**

The Council is broadly supportive of the proposed approach in respect of under-utilised land. However, there is concern regarding the approach to reallocating land for other uses and making it easier to convert land which is in existing uses. The Council considers it important that any decision to reallocate or convert land / buildings is informed by a long-term view of achieving sustainable growth. Once a site or building is reallocated or converted into housing, it is highly unlikely to be

available for alternative uses in the future and this must be balanced against the benefits of achieving housing delivery in the short term.

Consequently, the wording of part (a) of paragraph 121 should be amended so that it also reflects that retail and employment land should only be lost if it can be demonstrated, through detailed marketing evidence (covering a period of at least 12 months), that there is no demand for the existing uses now and for a set period e.g. up to 5 years.

**Q26 Do you agree with the proposed approach to employing minimum density standards where there is a shortage of land for meeting identified housing needs?**

The Council agrees that it is important to optimise the use of previously developed land and well-situated sites in the most sustainable locations. However, the Council would advocate a cautious approach to employing minimum density policies solely based on housing need. For example, the optimal use of a site may be for specialist accommodation that may not necessarily lend itself to high density. In addition, building at higher densities in some areas can have negative impacts on the character and appearance of said areas, as well as on local infrastructure. As such, the Council welcomes the flexibility given to local authorities as set out in paragraph 123 of the draft NPPF, that allows varying density standards across an area based on local circumstances.

**Q27 Do you have any other comments on the text of Chapter 11?**

As indicated in response to question 26, the weight given to brownfield land and the concept of optimising densities is welcomed in principle. The Council is however sceptical as to the development industry's appetite and readiness to make effective and optimal use of development sites especially, when this would mean a deviation from their current offer to the market and which is often most profitable.

As part of its Local Plan preparation, the Council has been actively seeking the provision for smaller units and using its planning policies where appropriate a greater number of mix of housing units. However, this is challenging when the market value of one larger unit of 4+ bedrooms remains more profitable than building five units of 1-2 bedrooms. The Council would therefore question whether the development industry is able to adapt to the proposed revisions and deliver in the short term and what measures and directions the Government is willing and able to take in support of local authorities.

**Chapter 12: Achieving well-designed places**

**Q28 Do you have any comments on the changes of policy in Chapter 12 that have not already been consulted on?**

The Council has no further comments.

**Q29 Do you have any other comments on the text of Chapter 12?**

The suggestion, in paragraph 129, that design should not be a valid reason for objecting to development where it accords with the design expectations set out in the local plan has some merit. However, this may be difficult to operate in practice unless the design expectations were very prescriptive.

**Chapter 13: Protecting the Green Belt**

**Q30 Do you agree with the proposed changes to enable greater use of brownfield land for housing in the Green Belt, and to provide for the other forms of development that are ‘not inappropriate’ in the Green Belt?**

National policy seeks to protect the Green Belt from inappropriate development, including the construction of new buildings, subject to certain exceptions. In the draft NPPF, the list of exceptions on brownfield land has been amended so that affordable housing on brownfield land, which would not cause substantial harm and would meet the identified local need, would not be considered inappropriate for development. This is a change to the previous proposal, which referred to starter homes only.

With reference to paragraph 144(f), the Council acknowledges the merits of the proposal in that it allows the opportunity for an increase in affordable housing. However, such development would result in incremental and unplanned growth in the Green Belt, contrary to the fundamental aim of Green Belt policy and indeed the purposes it serves as well as other policy considerations and constraints. For example, there is the potential that development will be taking place in unsustainable locations not well-connected to employment opportunities, facilities and services, and sustainable modes of transport. It is therefore, considered that flexibility should be given to local authorities to ensure that these concerns are balanced against the advantages of providing more affordable homes.

In addition, the Council is concerned as to the room for interpretation as to what is considered to be ‘substantial harm’. Such terminology is likely to lead to lengthy debate both during the decision-taking and appeals processes. As such, the Council considers that it should be left to local authorities to determine what is meant by “substantial harm” through their Local Plan policies and on the basis of their individual context.

**Q31 Do you have any other comments on the text of Chapter 13?**

The Council welcomes the decision by Government to carry forward proposals from the Housing White Paper – Fixing our broken housing market (February 2017)

clarifying, that before concluding that exceptional circumstances exist to justify changes to Green Belt boundaries, the strategic plan-making authority should have examined fully all other reasonable options for meeting identified need for development.

The Council would however, welcome a more explicit stance within the NPPF as when to amend Green Belt boundaries and how plan-makers should balance the tension between conserving 'well-performing' Green Belt to facilitate meeting full housing need. This is particularly prevalent in highly constrained areas such as Elmbridge where there is a significant shortfall in the supply of deliverable and developable housing sites within the existing settlement areas.

The Council is however, concerned with the proposal of first needing to consider previously developed land (PDL) if Green Belt boundaries are to be amended. As set out in the Council's response to question 30, PDL may not necessarily be located in the most sustainable location. Within Elmbridge Borough there are many examples of PDL which is remote with very limited access to community facilities and services and sustainable modes of transport. In addition, there is a real possibility that whilst land is PDL, it is still meeting the purpose of Green Belt as set out in the draft NPPF. By seeking to develop PDL land in the Green Belt first, the Council considers there to be conflict between the Government's policies.

## **Chapter 14: Meeting the challenge of climate change, flooding and coastal change**

### **Q32 Do you have any comments on the text of Chapter 14?**

The section of the current NPPF on climate change, flooding and coastal change has been extensively re-ordered, but there are few changes to the content. The Council has no detailed comments but welcomes the incorporation of the Written Ministerial Statement on sustainable drainage systems as well as the need to have regard to the cumulative impact of flood risk rather than just to and from individual development sites. This is the approach already taken by the Council, as set out in its Flood Risk Supplementary Planning Document (SPD), but further provisions at the national level is supported.

### **Q33 Does paragraph 149b need any further amendment to reflect the ambitions in the Clean Growth Strategy to reduce emissions from buildings?**

Paragraph 149(b) states that any local requirements for the sustainability of buildings should reflect the Government's policy for national technical standards. This is set out in practice guidance and allows a very limited range of (nationally prescribed) higher standards to be set locally, if justified by evidence.



The Clean Growth Strategy sets out the Government's ambition to reduce emissions from both commercial and residential buildings. It intends to do this by strengthening energy performance standards for commercial buildings and homes through the Building Regulations rather than through planning policy. Further amendments to paragraph 149b of the draft NPPF are not therefore required.

### **Chapter 15: Conserving and enhancing the nature environment**

#### **Q34 Do you agree with the approach to clarifying and strengthening protection for areas of particular environmental importance in the context of the 25 Year Environment Plan and national infrastructure requirements, including the level of protection for ancient woodland and aged or veteran trees?**

The draft NPPF proposes a higher level of protection for irreplaceable habitats, including ancient woodland and veteran trees on ancient wooded sites. Previously national policy sought to resist development affecting these sites, unless the need for, and the benefits of, the development clearly outweighed the loss. It is not proposed to resist development on such sites unless there are wholly exceptional reasons and a suitable mitigation strategy exists.

This proposal is welcomed as it would appear to give a greater amount of protection to irreplaceable habitats. However, it is considered that the same level of protection to aged and veteran trees outside of ancient woodland sites should be given (paragraph 173 (c)). The Council is concerned that there is no automatic protection for aged and veteran trees unless within an Ancient Woodland, a Conservation Area or being covered by a specific Tree Preservation Order (TPO).

#### **Q35 Do you have any other comments on the text of Chapter 15?**

The Council has no further comments.

### **Chapter 16: Conserving and enhancing the historic environment**

#### **Q36 Do you have any comments on the text of Chapter 16?**

The Council welcomes and supports clarification over the universal value of World Heritage Sites in paragraph 182. The Council also welcomes the new and the increased emphasis on the conservation of designated heritage assets irrespective of the degree of potential harm to its significance (paragraph 189) and that clear and convincing justification is required for any harm or loss to a designated heritage asset (paragraph 190).

The Council would however, suggest that cross reference and links to Chapters 12 (achieving well-designed places) and to Chapter 15 is made, as ancient woodland and aged and veteran trees are often part of the historic landscape.

## **Chapter 17: Facilitating the sustainable use of minerals**

**Q37 Do you have any comments on the changes of policy in Chapter 17, or on any other aspects of the text of this chapter?**

The Council has no specific comments to make and refers to the response of Surrey County Council as the Mineral Planning Authority.

**Q38 Do you think that planning policy on minerals would be better contained in a separate document?**

The Council has no specific comments to make and refers to the response of Surrey County Council as the Mineral Planning Authority.

**Q39 Do you have any views on the utility of national and sub-national guidelines on future aggregates provision?**

The Council has no specific comments to make and refers to the response of Surrey County Council as the Mineral Planning Authority.

## **Transitional arrangements and consequential changes**

**Q40 Do you agree with the proposed transitional arrangements?**

The Council considers the proposed transitional arrangements more sympathetic than that proposed in the previous consultations. However, the Council is concerned that there are no transitional arrangements in relation to introducing the Housing Delivery Test. This could prove to be an unnecessary distraction to local planning authorities in the latter stages of preparing new local plans or undertaking reviews.

In relation to the Statement of Common Ground, the Council raises no objection to exclusion of a transitional period as the requirements largely reflect those of the Duty to Co-operate. The Council would welcome consideration of a template or standard format to assist in the speed and consistency of their production.

**Q41 Do you think that any changes should be made to the Planning Policy for Traveller Sites as a result of the proposed changes to the Framework set out in this document? If so, what changes should be made?**

The Council welcomes the clarity provided by the inclusion of travellers (outside of the Planning Policy for Travellers definition) within the list of different community groups in paragraph 61 but does not consider there to be a need for a specific change to the Planning Policy for Traveller Sites.

**Q42 Do you think that any changes should be made to the Planning Policy for Waste as a result of the proposed changes to the Framework set out in this document? If so, what changes should be made?**

The Council has no specific comments to make and refers to the response of Surrey County Council as the Waste Planning Authority.

**Glossary**

**Q43 Do you have any comments on the glossary?**

The Historic Environment definition featured in the existing NPPF (2012) has been removed. This was a useful definition and given that reference to the Historic Environment remains within the draft NPPF (paragraph 183), the Council considers it should be reinstated in the glossary.

The Council raises strong concern over the new definition of affordable housing and would like to the Government to seriously consider the following points:

- The Council strongly opposes the inclusion within this definition of low cost market homes that are not subject to restrictions requiring them to remain at an affordable price for future eligible households. A range of new affordable homes is needed to meet a broad spectrum of housing needs: we appreciate that affordable homeownership options make up part of this mix and can help to create balanced, sustainable communities. However, the benefit (planning gain) of affordable housing provided on new developments is greatly reduced if this benefit is not secured in perpetuity for future eligible households. Amending the definition of affordable housing to remove the 'in perpetuity' requirement may have unintended consequences, for example, lack of support from local Planning Committees for new development due to the risk that the affordable homes will be lost to the open market.
- The Council does not agree that starter homes should be incorporated within the NPPF definition of affordable housing for the following reasons:
  - o starter homes cannot be secured as affordable in perpetuity
  - o the importance of supplying a mix of housing tenures to provide for people on lower incomes
  - o the need for flexibility to reflect housing needs in different areas
  - o the potential reduction in the delivery of other types of affordable housing
  - o the extent to which starter homes will be genuinely affordable
  - o lack of local connection criteria may be at odds with the aspirations of groups wishing to bring forward community led housing
  - o the impact of starter homes on local housing markets.

- References to eligibility have been removed from the definition. As a result, the Council is very concerned that new affordable homes built will not meet the needs of the households in greatest need of affordable housing. Each local authority has a statutory Allocations Scheme setting out eligibility for social rented and affordable rented housing. Eligibility for low cost homeownership products is set out in the Homes England Capital Funding guide. Eligibility is determined with regard to local incomes and local house prices (as set out in the existing NPPF definition). To make best use of affordable housing, which is a scarce resource, it is imperative that the NPPF definition of affordable housing specifies that affordable housing is for eligible households whose needs are not met by the market.
- References to social rented housing have been removed from the definition. Evidence at local and national level shows that affordable rented and shared ownership tenures remain beyond the reach many low income working households, making social rented housing the only affordable option for them. Recent government policy announcements have suggested that in future, funding for social rented housing will increase, so it is important that this tenure is included within the NPPF definition.
- The Council note that the under the definition of “affordable housing for rent” there is a restriction that the landlord is a registered provider (with the exception of build to rent schemes). This is a change to the existing definition where “other equivalent arrangements” allows for providers which are not local authorities or housing associations to provide affordable housing. Whilst such a change gives clarity and rules out unregistered or unregulated bodies from taking on this role, it may be too prescriptive and rule out innovation. For example, if a grass-roots community-led housing organisation sought to deliver affordable rented housing, it would appear that this would not meet the definition unless it became a registered provider. Likewise, there is an almshouse charity operating locally which is looking to develop affordable housing for rent, but which is not a registered provider and as things stand, would not comply with the proposed definition. Obviously, on both cases, the provider has the option of seeking to become a registered provider, but this incurs cost and may be a barrier. Finally, an increasing number of local authorities are resuming the role of housing deliverers – either directly or through special purpose vehicles such as wholly-council owned housing companies. Whilst it is understood that local authority housing providers are automatically considered to be registered providers, it would be helpful if clarification could be provided as to whether a wholly council-owned housing company would also be considered to be a registered provider and therefore comply with the definition. Conversely, if such entities were not covered by the definition, it could have the presumably unintended consequence of stopping councils from helping to deliver additional supply.

It would be helpful if this part of the definition could be reviewed and a balance struck so that safeguards in respect of the probity and quality of affordable housing landlords were put in place whilst also ensuring that other legitimate providers (who are not necessarily registered) are able to come forward.